JOINT COMMITTEE ON

INDIAN CONSTITUTIONAL REFORM

[SESSION 1933-34]

VOLUME I

(PART II)

PROCEEDINGS

[The REPORT of the Joint Committee [*Session 1933-34*] will be found in Volume I (Part I).]

[The RECORDS of the Joint Committee [*Session 1933-34*] will be found in Volume II.]

[*The PROCEEDINGS, EVIDENCE, and RECORDS of the Joint Committee* [Session 1932-33] *will be found in the following Parliamentary Papers of 1933*: H.L.79(I), (IIA, B, C, and D), and (III); *or* H.C. 112(I) (IIA, B, C, and D), and (III).]



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SESSION 1932-33

[*The PROCEEDINGS, EVIDENCE, and RECORDS of the Joint Committee* [Session 1932-33] *will be found in the following Parliamentary papers of 1933:* H.L. 79(I), (II A, B, C, and D), and (III); *or* H.C. 112 (I) (II A, B, C and D), and (III).]

SESSION 1933-34

VOLUME I

PART I

REPORT

PART II

PROCEEDINGS

†These discussions were held in private and the transcripts of them have been destroyed by order of the Joint Committee, with the exception of the preliminary discussion between the Joint Committee and the Delegates from Burma on the 6th and 7th December 1933, which was published in Record B1, [*vide* page 115, Vol. II, Records of the Joint Committee (Session 1933-34).]

VOLUME II

RECORDS

A1.

A2.

B1.

* The Joint Committee decided to consider the Draft Report laid before them by the Lord in the Chair.

† The Joint Committee decided to consider this alternative Part I (Paras. 1 to 42B), in lieu of the Introduction in the original Draft Report laid before them by the Lord in the Chair on 18.6.34.

B2.

B3.

C1.

Papers submitted by the Secretary of State for India :-

C2

Papers submitted by Members of the Committee :--

C3.

Consultation on Irrigation and Forestry.

	£	s	d
The approximate cost of the Joint Committee during the session 1932-33 was	24,869	1	0
The approximate cost of the Joint Committee during the session 1933-34 was as follows :—			
The cost of printing, indexing and publishing the volumes is estimated by the Stationery Office at :—			
Vol. I, Part I	1,250	0	0
Vol. I, Part II	835	0	0
Vol II	490	0	0
The cost of repayment of the expenses of the Delegates from Burma was	1,178	0	0
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The cost of the shorthand notes of the Discussions was	246	17	7
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ORDERS OF REFERENCE

HOUSE OF LORDS

Die Jovis 23° *Novembris* 1933

Message from the Commons that they have come to the following Resolution to which they desire the concurrence of this House, viz. : That, before Parliament is asked to take a decision upon the proposals contained in Command Paper 4268, it is expedient that a Joint Committee of Lords and Commons, with power to call into consultation representatives of the Indian States and of British India, be appointed to consider the future government of India and, in particular, to examine and report upon the proposals in the said Command Paper : The said message *considered* (on motion): Then it was *moved*, That this House do concur in the said Resolution communicated by the Commons (The Lord Chancellor) ; *agreed to* ; and a message ordered to be sent to the Commons to acquaint them therewith.

Die Martis 28° *Novembris* 1933

Message from the Commons that they have appointed a Committee to consist of Sixteen Members to join with a Committee of this House, with power to call into consultation representatives of the Indian States and of British India, to consider the future government of India and, in particular, to examine and report upon the proposals contained in Command Paper 4268 : that they have made the following Orders :—

That the Committee have power to send for persons, papers and records, and to sit notwithstanding any Adjournment of the House.

That the Committee have power to report from time to time.

That the Committee have power to report from day to day or otherwise the Minutes of Evidence taken before them and such other records as they may think fit.

That the Committee have power, if the House be not sitting, to send such Minutes and records to the Clerk of the House, who shall thereupon give directions for the printing and circulation thereof, and shall lay the same upon the Table of the House at its next meeting.

That the Committee have power, if they so determine, to appoint one or more sub-committees to take evidence or to consider any matters that may be referred to them.

That any sub-committees so appointed shall have power to send for persons, papers, and records and to sit notwithstanding any Adjournment of the House.

That any evidence taken by such sub-committees shall be reported by them to the main Committee.

That the Minutes of Evidence taken before, and Records reported from, the Joint Committee appointed in Session 1932-33 to consider Indian Constitutional Reform be referred to the Committee.

That Eight be the quorum.

And to request this House to appoint an equal number of Lords to be joined with the Members of their House: The said Message *considered* (on motion).

Then it was *moved*, That a Committee of Sixteen Lords be appointed to join with the Committee of the Commons, as mentioned in the said Message, and that the Lords following be named of the Committee:—

Lord Archbishop of Canterbury.	Earl Peel.
Lord Chancellor.	Lord Middleton.
Marquess of Salisbury.	Lord Ker (M. Lothian).
Marquess of Zetland.	Lord Hardinge of Penshurst.
Marquess of Linlithgow.	Lord Irwin.
Marquess of Reading.	Lord Snell.
Earl of Derby.	Lord Rankeillour.
Earl of Lytton.	Lord Hutchison of Montrose.

That leave be given to the Committee to lay upon the Table from day to day or otherwise the Minutes of Evidence taken before them and also such other records as they may think fit; that such Minutes of Evidence and records be printed, and delivered out; That, if the House be not sitting, such Evidence and records shall be deemed to have been laid upon the Table of the House when delivered to the Clerk of the Parliaments.

That the Committee have power, if they so determine, to appoint one or more sub-committees to take evidence or to consider any matters that may be referred to them; that any evidence taken by any such sub-committee shall be deemed to be evidence taken before the Joint Committee.

That leave be given to the Committee to report from time to time.

That the Minutes of Evidence and Records of the Joint Committee on Indian Constitutional Reform laid upon the Table in the last Session be referred to the Committee (The Lord Chancellor); *agreed to*:

Ordered, That such Committee have power to agree with the Committee of the Commons in the appointment of a Chairman: Then a Message was ordered to be sent to the Commons to inform them of the appointment of the said Committee by this House, to acquaint them with the above resolutions, and to propose that the Joint Committee do meet in Grand Committee Room No. 10, *To-morrow, at Five o'clock.*

Die Mercurii 29° Novembris 1933

Message from the Commons, that they have ordered that the Committee appointed by them to join with the Committee of this House as a Joint Committee on Indian Constitutional Reform do meet the Lords Committee in Grand Committee Room No. 10 this day at Five o'clock as proposed by their Lordships

HOUSE OF COMMONS

Wednesday, 22nd November, 1933

Resolved, That, before Parliament is asked to take a decision upon the proposals contained in Command Paper 4268, it is expedient that a Joint Committee of Lords and Commons, with power to call into consultation representatives of the Indian States and of British India, be appointed to consider the future government of India and, in particular, to examine and report upon the proposals in the said Command Paper.—(*Secretary Sir Samuel Hoare.*)

Message to the Lords to acquaint them therewith.

Thursday, 23rd November, 1933

Message from the Lords that they concur with the Commons in their Resolution communicated to them this day, viz.: "That, before Parliament is asked to take a decision upon the proposals contained in Command Paper 4268, it is expedient that a Joint Committee of Lords and Commons, with power to call into consultation representatives of the Indian States and of British India, be appointed to consider the future government of India and, in particular, to examine and report upon the proposals in the said Command Paper."

Friday, 24th November, 1933

Resolution of the House [22nd November] relative to the appointment of a Joint Committee on Indian Constitutional Reform, which was ordered to be communicated to the Lords, and the Lords Message [23rd November] signifying their concurrence in the Resolution, read:

Ordered, That a Select Committee of Sixteen Members be appointed to join with a Committee to be appointed by the Lords, with power to call into consultation representatives of the Indian States and of British India, to consider the future government of India and, in particular, to examine and report on the proposals contained in Command Paper 4268.

Ordered, That the Committee have power to send for persons, papers, and records, and to sit notwithstanding any Adjournment of the House.

Ordered, That the Committee have power to report from time to time.

Ordered, That the Committee have power to report from day to day or otherwise the Minutes of Evidence taken before them and such other records as they may think fit.

Ordered, That the Committee have power, if the House be not sitting, to send such Minutes and records to the Clerk of the House,

who shall thereupon give directions for the printing and circulation thereof, and shall lay the same upon the Table of the House at its next meeting.

Ordered, That the Committee have power, if they so determine, to appoint one or more Sub-Committees to take evidence or to consider any matters that may be referred to them.

Ordered, That any Sub-Committees so appointed shall have power to send for persons, papers, and records and to sit notwithstanding any Adjournment of the House.

Ordered, That any evidence taken by such sub-committee shall be reported by them to the main Committee.

Ordered, That the Minutes of Evidence taken before, and Records reported from, the Joint Committee appointed in Session 1932-33 to consider Indian Constitutional Reform be referred to the Committee.

Ordered, That Eight be the quorum.—(*Captain Margesson.*)

Message to the Lords to acquaint them therewith, and to request them to appoint an equal number of Lords to join with the Committee appointed by this House.

Committee *nominated* of,—Major Attlee, Mr. Butler, Mr. Cadogan, Sir Austen Chamberlain, Mr. Cocks, Sir Reginald Craddock, Mr. Davidson, Mr. Isaac Foot, Secretary Sir Samuel Hoare, Mr. Morgan Jones, Sir Joseph Nall, Lord Eustace Percy, Miss Pickford, Secretary Sir John Simon, Sir John Wardlaw-Milne, and Earl Winterton. —(*Captain Margesson.*)

Tuesday, 28th November, 1933.

Message from the Lords that they have appointed a Committee consisting of sixteen Lords to join with a Committee of the Commons as a Joint Committee on Indian Constitutional Reform, pursuant to the Commons Message of this day.

They communicate that they have come to the following Resolutions, viz.: That leave be given to the Committee to lay upon the Table from day to day, or otherwise, the Minutes of Evidence taken before them, and also such other Records as they may think fit; that such Minutes of Evidence and Records be printed, and delivered out; that, if the House be not sitting, such Evidence and Records shall be deemed to have been laid upon the Table of the House when delivered to the Clerk of the Parliaments.

That the Committee have power, if they so determine, to appoint one or more sub-committees to take Evidence or to consider any matters that may be referred to them; that any Evidence taken by any such sub-committee shall be deemed to be Evidence taken before the Joint Committee.

That leave be given to the Committee to report from time to time

That the Minutes of Evidence and Records of the Joint Committee on Indian Constitutional Reform laid upon the Table in the last Session be referred to the Committee.

They propose that the Joint Committee do meet in Committee Room No. 10, To-morrow, at Five o'clock.

So much of the Lords Message as relates to Indian Constitutional Reform *considered*.

Ordered, That the Committee appointed by this House do meet the Lords Committee as proposed by their Lordships. (*Captain Margesson.*)

Message to the Lords to acquaint them therewith.

THE REPORT OF THE JOINT COMMITTEE ON INDIAN CONSTITUTIONAL REFORM WILL BE FOUND IN VOLUME I, PART I.

LORDS AND MEMBERS PRESENT

AND DELEGATES FROM BURMA IN ATTENDANCE AND MINUTES OF PROCEEDINGS OF THE COMMITTEE

Die Mercurii 29° Novembris 1933

Present

Lord Archbishop of Canterbury.
Marquess of Salisbury.
Marquess of Zetland.
Marquess of Linlithgow.
Marquess of Reading.
Earl of Derby.
Earl of Lytton.
Earl Peel.
Lord Middleton.
Lord Kerr (M. Lothian).
Lord Hardinge of Penshurst.
Lord Irwin.
Lord Rankeillour.
Lord Hutchison of Montrose.
Mr. Attlee.
Mr. Butler.
Major Cadogan.
Sir Austen Chamberlain.
Mr. Cocks.
Sir Reginald Craddock.
Mr. Davidson.
Mr. Foot.
Sir Samuel Hoare.
Mr. Morgan Jones.
Lord Eustace Percy.
Miss Pickford.
Sir John Wardlaw-Milne.
Earl Winterton.

The Order of Reference is read.

It is moved that the Marquess of Linlithgow do take the Chair.

The same is agreed to.

The course of Proceedings is considered.

The Committee decide to call into consultation the following representatives from Burma :-

Sra Shwe Ba, T.P.S.
Mr. C. H. Campagnac, M.B.E.
Mr. Nanabhai Merwanji Cowasjee.
U Kyaw Din.
Mr. K. S. Harper.
U Chit Hlaing.
U Thein Maung.
Dr. Ba Maw.
U Ba Pe.
Dr. Ma Saw Sa.
U Shwe Tha.
Mr. S. A. S. Tyabji.

A preliminary discussion is held on the proposals in the Burma White Paper (*vide* Second Appendix, Vol. I, Part I).

Ordered that the Committee be adjourned till to-morrow at half-past ten o'clock.

Die Jovis 30° Novembris 1933

Present

Lord Archbishop of Canterbury.
Marquess of Salisbury.
Marquess of Zetland.
Marquess of Linlithgow.
Marquess of Reading.
Earl of Derby.
Earl of Lytton.
Earl Peel.
Lord Middleton.
Lord Ker (M. Lothian).
Lord Hardinge of Penshurst.
Lord Irwin.
Lord Snell.
Lord Rankeillour.
Lord Hutchison of Montrose.

Mr. Attlee.
Mr. Butler.
Major Cadogan.
Sir Austen Chamberlain.
Mr. Cocks.
Sir Reginald Craddock.
Mr. Davidson.
Mr. Foot.
Sir Samuel Hoare.
Mr. Morgan Jones.
Sir Joseph Nall.
Lord Eustace Percy.
Miss Pickford.
Sir John Wardlaw-Milne.
Earl Winterton.

The Marquess of Linlithgow in the Chair.

The Order of Adjournment is read.

The Proceedings of yesterday are read.

A further preliminary discussion is held on the proposals in the Burma White Paper (*vide* Second Appendix, Vol. I. Part I).

Ordered that the Committee be adjourned till to-morrow at half-past ten o'clock.

Die Veneris 1° Decembris 1933

Present :

Lord Archbishop of Canterbury.
Marquess of Salisbury.
Marquess of Zetland.
Marquess of Linlithgow.
Marquess of Reading.
Earl of Lytton.
Lord Ker (M. Lothian).
Lord Snell.
Lord Rankeillour.
Lord Hutchison of Montrose.

Mr. Attlee.
Mr. Butler.
Major Cadogan.
Sir Austen Chamberlain.
Mr. Cocks.
Sir Reginald Craddock.
Mr. Davidson.
Mr. Foot.
Sir Samuel Hoare.
Mr. Morgan Jones.
Lord Eustace Percy.
Miss Pickford.
Sir John Wardlaw-Milne.
Earl Winterton.

The Marquess of Linlithgow in the Chair.

The Order of Adjournment is read.

The Proceedings of yesterday are read.

A further preliminary discussion is held on the proposals contained in the Burma White Paper (*vide* Second Appendix, Vol. I, Part I).

Ordered that the Committee be adjourned to Tuesday next at half-past ten o'clock.

Die Martis 5° Decembris 1933

Present :

Lord Archbishop of Canterbury.
Lord Chancellor.
Marquess of Zetland.
Marquess of Linlithgow.
Marquess of Reading.
Earl of Lytton.
Earl Peel.
Lord Middleton.
Lord Ker (M. Lothian).
Lord Hardinge of Penshurst.
Lord Irwin.
Lord Snell.
Lord Hutchison of Montrose.

Mr. Attlee.
Mr. Butler.
Major Cadogan.
Sir Austen Chamberlain.
Sir Reginald Craddock.
Mr. Davidson.
Mr. Foot.
Sir Samuel Hoare.
Mr. Morgan Jones.
Lord Eustace Percy.
Miss Pickford.
Sir John Wardlaw-Milne.
Earl Winterton.

The following Delegates from Burma were also present :—

Sra Shwe Ba.
Mr. C. H. Campagnac.
Mr. Nanabhai Merwanji Cowasjee.
U Kyaw Din.
Mr. K. S. Harper.
U Chit Hlaing.

U Thein Maung.
Dr. Ba Maw.
U Ba Pe.
Dr. Ma Saw Sa.
U Shwe Tha.
Mr. S. A. S. Tyabji.

The Marquess of Linlithgow in the Chair.

The Order of Adjournment is read.

The Proceedings of Friday last are read.

The Chairman is heard to welcome the representatives from Burma who have arrived to confer with the Committee in response to their invitation.

The Course of Proceedings is considered.

Ordered that the Committee be adjourned till to-morrow at three o'clock.

Die Mercurii 6° Decembris 1933

Present :

LORD ARCHBISHOP OF CANTERBURY.
MARQUESS OF SALISBURY.
MARQUESS OF ZETLAND.
MARQUESS OF LINLITHGOW.
MARQUESS OF READING.
EARL OF DERBY.
EARL OF LYTTON.
EARL PEEL.
LORD MIDDLETON.
LORD KER (M. LOTHIAN).
LORD IRWIN.
LORD SNELL.
LORD RANKEILLOUR.
LORD HUTCHISON OF MONTROSE.

MR. ATTLEE.
MR. BUTLER.
MAJOR CADOGAN.
SIR AUSTEN CHAMBERLAIN.
MR. COCKS.
SIR REGINALD CRADDOCK.
MR. DAVIDSON.
MR. FOOT.
SIR SAMUEL HOARE.
MR. MORGAN JONES.
SIR JOSEPH NALL.
LORD EUSTACE PERCY.
MISS PICKFORD.
SIR JOHN WARDLAW-MILNE.
EARL WINTERTON.

The following Delegates from Burma were also present :-

SRA SHWE BA.
MR. C. H. CAMPAGNAC.
MR. NANABHAI MERWANJI COWASJEE.
U KYAW DIN.
MR. K. S. HARPER.
U CHIT HLAING.

U THEIN MAUNG.
DR. BA MAW.
U BA PE.
DR. MA SAW SA.
U SHWE THA.
MR. S. A. S. TYABJI.

THE MARQUESS OF LINLITHGOW in the Chair.

The Order of Adjournment is read.

The Proceedings of yesterday are read.

The Committee decide that the Preliminary General Discussion between themselves and the Delegates from Burma on the question whether Burma should be separated from or federated with India shall be printed and laid before both Houses of Parliament.

The Committee proceed to discuss the question as to whether Burma should be separated from or federated with India, with the Delegates from Burma.

Ordered that the Committee be adjourned till to-morrow at half-past ten o'clock.

Die Jovis 7° Decembris 1933

Present :

Lord Archbishop of Canterbury.
Lord Chancellor.
Marquess of Salisbury.
Marquess of Zetland.
Marquess of Linlithgow.
Marquess of Reading.
Earl of Derby.
Earl of Lytton.
Earl Peel.
Lord Middleton.
Lord Ker (M. Lothian)
Lord Hardinge of Penshurst.
Lord Snell.
Lord Rankeillour.
Lord Hutchison of Montrose.

Mr. Attlee.
Mr. Butler.
Major Cadogan.
Sir Austen Chamberlain.
Mr. Cocks.
Sir Reginald Craddock.
Mr. Davidson.
Mr. Foot.
Sir Samuel Hoare.
Mr. Morgan Jones.
Sir Joseph Nall.
Lord Eustace Percy.
Miss Pickford.
Sir John Wardlaw-Milne.
Earl Winterton.

The following Delegates from Burma were also present :—

Sra Shwe Ba.
Mr. C. H. Campagnac.
Mr. Nanabhai Merwanjee Cowasjee.
U Kyaw Din.
Mr. K. S. Harper.
U Chit Hlaing.

U Thein Maung.
Dr. Ba Maw
U Ba Pe.
Dr. Ma Saw Sa.
U Shwe Tha.
Mr. S. A. S. Tyabji.

The Marquess of Linlithgow in the Chair.

The Order of Adjournment is read.

The Proceedings of yesterday are read.

The Committee again proceed to discuss the question as to whether Burma should be separated from or federated with India, with the Delegates from Burma.

Ordered that Record BI, being a record of the discussion held yesterday and this day, be printed and be laid before both Houses of Parliament (*vide* Vol. II, Records (Session 1933-34), pp. 115—176).

The Committee proceed to discuss the proposals in the Burma White Paper (*vide* Second Appendix, Vol. I, Part I) with the Delegates from Burma.

Ordered that the Committee be adjourned till to-morrow at half-past ten o'clock.

Die Veneris 8° Decembris 1933

Present :

LORD ARCHBISHOP OF CANTERBURY.
MARQUESS OF SALISBURY.
MARQUESS OF ZETLAND.
MARQUESS OF LINLITHGOW.
MARQUESS OF READING.
EARL OF DERBY.
EARL OF LYTTON.
EARL PEEL.
LORD MIDDLETON.
LORD KER (M. LOTHIAN).
LORD HARDINGE OF PENSHURST.
LORD IRWIN.
LORD SNELL.
LORD RANKEILLOUR.
MR. ATTLEE.
MR. BUTLER.
MAJOR CADOGAN.
SIR AUSTEN CHAMBERLAIN.
MR. COCKS.
SIR REGINALD CRADDOCK.
MR. DAVIDSON.
MR FOOT.
SIR SAMUEL HOARE.
SIR JOSEPH NALL.
MR. MORGAN JONES.
LORD EUSTACE PERCY.
MISS PICKFORD.
EARL WINTERTON.

The following Delegates from Burma were also present :—

SRA SHWE BA.
MR. C. H. CAMPAGNAC.
MR. NANABHAI MERWANJI COWASJEE.
U KYAW DIN.
MR. K. S. HARPER.
U CHIT HLAING.
U THEIN MAUNG.
DR. BA MAW.
U BA PE.
DR. MA SAW SA.
U SHWE THA.
MR. S. A. S. TYABJI.

THE MARQUESS OF LINLITHGOW in the Chair.

The Order of Adjournment is read.

The Proceedings of yesterday are read.

The Committee again proceed to discuss the proposals contained in the Burma White Paper (*vide* Second Appendix, Vol. I, Part I) with the Delegates from Burma.

Ordered that the Committee be adjourned to Tuesday next at half-past ten o'clock.

Die Martis 12° Decembris 1933

Present :

Lord Archbishop of Canterbury.
Lord Chancellor.
Marquess of Zetland.
Marquess of Linlithgow.
Marquess of Reading.
Earl of Derby.
Earl of Lytton.
Earl Peel.
Lord Middleton.
Lord Ker (M. Lothian).
Lord Hardinge of Penshurst.
Lord Snell.
Lord Rankeillour.
Lord Hutchison of Montrose.

Mr. Attlee.
Mr. Butler.
Major Cadogan.
Sir Austen Chamberlain.
Mr. Cocks.
Sir Reginald Craddock.
Mr. Davidson.
Mr. Foot.
Sir Samuel Hoare.
Mr. Morgan Jones.
Sir Joseph Nall.
Lord Eustace Percy.
Miss Pickford.
Sir John Wardlaw-Milne.
Earl Winterton.

The following Delegates from Burma were also present :—

Sra Shwe Ba.
Mr. C. H. Campagnac.
Mr. Nanabhai Merwanji Cowasjee.
U Kyaw Din.
Mr. K. S. Harper.
U Chit Hlaing.

U Thein Maung.
Dr. Ba Maw.
U Ba Pe.
Dr. Ma Saw Sa.
U Shwe Tha.
Mr. S. A. S. Tyabji.

The Marquess of Linlithgow in the Chair.

The Order of Adjournment is read.

The Proceedings of Friday last are read.

The Committee again proceed to discuss the proposals contained in the Burma White Paper (*vide* Second Appendix, Vol. I, Part I) with the Delegates from Burma.

Ordered that the Committee be adjourned till to-morrow at three o'clock.

Die Mercurii 13° Decembris 1933

Present :

LORD ARCHBISHOP OF CANTERBURY.
MARQUESS OF SALISBURY.
MARQUESS OF ZETLAND.
MARQUESS OF LINLITHGOW.
MARQUESS OF READING.
EARL OF DERBY.
EARL PEEL.
LORD MIDDLETON.
LORD KER (M. LOTHIAN).
LORD RANKEILLOUR.

MR. ATTLEE.
MR. BUTLER.
MAJOR CADOGAN.
SIR AUSTEN CHAMBERLAIN.
MR. COCKS.
SIR REGINALD CRADDOCK.
MR. DAVIDSON.
MR. FOOT.
SIR SAMUEL HOARE.
MR. MORGAN JONES.
SIR JOSEPH NALL.
LORD EUSTACE PERCY.
MISS PICKFORD.
SIR JOHN WARDLAW-MILNE.
EARL WINTERTON.

The following Delegates from Burma were also present :—

SRA SHWE BA.
MR. C. H. CAMPAGNAC.
MR. NANABHAI MERWANJI COWASJEE.
U KYAW DIN.
MR. K. S. HARPER.
U CHIT HLAING.

U THEIN MAUNG.
DR. BA MAW.
U BA PE.
DR. MA SAW SA.
U SHWE THA.
MR. S. A. S. TYABJI.

THE MARQUESS OF LINLITHGOW in the Chair.

The Order of Adjournment is read.

The Proceedings of yesterday are read.

The Committee again proceed to discuss the proposals contained in the Burma White Paper (*vide* Second Appendix, Vol. I, Part I) with the Delegates from Burma.

Ordered that the Committee be adjourned till to-morrow at half-past ten o'clock.

Die Jovis 14° Decembris 1933

Present :

MARQUESS OF SALISBURY.
MARQUESS OF ZETLAND.
MARQUESS OF LINLITHGOW.
MARQUESS OF READING.
EARL OF DERBY.
EARL PEEL.
LORD KER (M. LOTHIAN).
LORD HARDINGE OF PENSHURST.
LORD SNELL.
LORD RANKEILLOUR.
LORD HUTCHISON OF MONTROSE.

MR. ATTLEE.
MR. BUTLER.
MAJOR CADOGAN.
SIR AUSTEN CHAMBERLAIN.
MR. COCKS.
SIR REGINALD CRADDOCK.
MR. DAVIDSON.
SIR SAMUEL HOARE.
MR. MORGAN JONES.
SIR JOSEPH NALL.
LORD EUSTACE PERCY.
MISS PICKFORD.
SIR JOHN WARDLAW-MILNE.
EARL WINTERTON.

The following Delegates from Burma were also present :—

SRA SHWE BA.
MR. C. H. CAMPAGNAC.
MR. NANABHAI MERWANJI COWASJEE.
U KYAW DIN.
MR. K. S. HARPER.
U CHIT HLAING.

U THEIN MAUNG.
DR. BA MAW.
U BA PE.
DR. MA SAW SA.
U SHWE THA.
MR. S. A. S. TYABJI.

THE MARQUESS OF LINLITHGOW in the Chair.

The Order of Adjournment is read.

The Proceedings of yesterday are read.

The Committee again proceed to discuss the proposals contained in the Burma White Paper (*vide* Second Appendix, Vol. I, Part I) with the Delegates from Burma.

Ordered that the Committee be adjourned till to-morrow at half-past ten o'clock.

Die Veneris 15° Decembris 1933

Present :

Lord Archbishop of Canterbury.
Marquess of Salisbury.
Marquess of Zetland.
Marquess of Linlithgow.
Marquess of Reading.
Earl Peel.
Lord Middleton.
Lord Kerr (M. Lothian).
Lord Hardinge of Penshurst.
Lord Snell.
Lord Rankeillour.
Lord Hutchison of Montrose.
Mr. Butler.
Sir Austen Chamberlain.
Mr. Cocks.
Sir Reginald Craddock.
Mr. Davidson.
Sir Samuel Hoare.
Lord Eustace Percy.
Miss Pickford.
Sir John Wardlaw-Milne.
Earl Winterton.

The following Delegates from Burma were also present :—

Sra Shwe Ba.
Mr. C. H. Campagnac.
Mr. Nanabhai Merwanji Cowasjee.
U Kyaw Din.
Mr. K. S. Harper.
U Chit Hlaing.
U Thein Maung.
Dr. Ba Maw.
U Ba Pe.
Dr. Ma Saw Sa.
U Shwe Tha.
Mr. S. A. S. Tyabji.

The Marquess of Linlithgow in the Chair.

The Order of Adjournment is read.

The Proceedings of yesterday are read.

The Committee again proceed to discuss the proposals contained in the Burma White Paper (*vide* Second Appendix, Vol. I, Part I) with the Delegates from Burma.

Ordered that the Committee be adjourned to Tuesday at half-past ten o'clock.

Die Martis 19° Decembris 1933

Present :

Marquess of Salisbury.
Marquess of Zetland.
Marquess of Linlithgow.
Marquess of Reading.
Earl of Derby.
Earl Peel.
Lord Middleton.
Lord Ker (M. Lothian).
Lord Hardinge of Penshurst.
Lord Snell.
Lord Rankeillour.
Lord Hutchison of Montrose.
Mr. Butler.
Major Cadogan.
Sir Austen Chamberlain.
Mr. Cocks.
Sir Reginald Craddock.
Mr. Davidson.
Mr. Foot.
Sir Samuel Hoare.
Mr. Morgan Jones.
Lord Eustace Percy.
Miss Pickford.
Sir John Wardlaw-Milne.
Earl Winterton.

The following Delegates from Burma were also present

Sra Shwe Ba.
Mr. C. H. Campagnac.
Mr. Nanabhai Merwanji Cowasjee.
U Kyaw Din.
Mr. K. S. Harper.
U Chit Hlaing.
U Thein Maung.
Dr. Ba Maw.
U Ba Pe.
Dr. Ma Saw Sa.
U Shwe Tha.
Mr. S. A. S. Tyabji.

The Marquess of Linlithgow in the Chair.

The Order of Adjournment is read.

The Proceedings of Friday last are read.

The Committee again proceed to discuss the proposals contained in the Burma White Paper (*vide* Second Appendix, Vol. I, Part I) with the Delegates from Burma.

Ordered that the Committee be adjourned till to-morrow at half past ten o'clock.

Die Mercurii 20° Decembris 1933

Present :

Marquess of Salisbury.
Marquess of Zetland.
Marquess of Linlithgow.
Marquess of Reading.
Earl of Derby.
Lord Middleton.
Lord Kerr (M. Lothian).
Lord Hardinge of Penshurst
Lord Snell.
Lord Rankeillour
Lord Hutchison of Montrose.

Mr. Attlee.
Mr. Butler.
Major Cadogan.
Sir Austen Chamberlain.
Mr. Cocks.
Sir Reginald Craddock.
Mr. Davidson.
Mr. Foot.
Sir Samuel Hoare.
Mr. Morgan Jones.
Lord Eustace Percy.
Miss Pickford.
Sir John Wardlaw-Milne.
Earl Winterton.

The following Delegates from Burma were also present .

Sra Shwe Ba.
Mr. C. H. Campagnac
Mr. Nanabhai Merwanji Cowasjee.
U Kyaw Din.
Mr. K. S. Harper.
U Chit Hlaing.

U Thein Maung.
Dr. Ba Maw
U Ba Pe.
Dr Ma Saw Sa.
U Shwe Tha.
Mr. S. A. S Tyabji.

The Marquess of Linlithgow in the Chair.

The Order of Adjournment is read.

The Proceedings of yesterday are read.

The Committee again proceed to discuss the proposals contained in the Burma White Paper (*vide* Second Appendix, Vol I, Part I) with the Delegates from Burma.

The Lord in the Chair is heard to take leave of the Delegates from Burma.

The Secretary of State for India is also heard to take leave of the Delegates from Burma.

U Ba Pe is heard to take leave of the Committee

The Secretary of State for India is heard to request the leave of the Committee to lay Records A.1 and A.2 before them, being :-

A 1.
- I. Notes by the Secretary of State for India on the Points of Difference between the Proposals for Constitutional Reform in Burma and in India.
- II. Memorandum by the Secretary of State for India on the Franchise, Composition of the Legislature and Representation of Minorities and Special Interests in Burma.
- III. Memorandum by the Secretary of State for India on Excluded Areas in Burma.

A.2
- I. Memorandum by the Secretary of State for India on Discrimination in Burma.
- II. Memorandum by the Secretary of State for India giving Proposals for the future administration of the Burma railways.

Ordered that Records A.1 and A.2 be *printed* and be laid before both Houses of Parliament [*vide* Volume II, Records (Session 1933-34)].

Ordered that the Committee be adjourned to Tuesday the 30th of January at three o'clock.

Die Martis 30° Januarii 1934

Present :

Lord Archbishop of Canterbury.
Lord Chancellor.
Marquess of Salisbury.
Marquess of Zetland.
Marquess of Linlithgow.
Marquess of Reading.
Earl of Derby.
Earl of Lytton.
Earl Peel.
Lord Middleton.
Lord Ker (M. Lothian).
Lord Hardinge of Penshurst.
Lord Snell.
Lord Rankeillour.
Lord Hutchison of Montrose.

Mr. Attlee.
Mr. Butler.
Major Cadogan.
Sir Austen Chamberlain.
Mr. Cocks.
Sir Reginald Craddock.
Mr. Davidson.
Mr. Foot.
Sir Samuel Hoare.
Mr. Morgan Jones.
Sir Joseph Nall.
Lord Eustace Percy.
Miss Pickford.
Sir John Wardlaw-Milne.

The Marquess of Linlithgow in the Chair.

The Order of Adjournment is read.

The Proceedings of the 20th December last are read.

The Committee proceed to discuss the proposals contained in the White Paper (*vide* Appendices, Vol. I, Part I) and matters arising therefrom.

Ordered that the Committee be adjourned to Friday next at half-past ten o'clock.

Die Veneris 2° Februarii 1934

Present :

Lord Archbishop of Canterbury.
Lord Chancellor.
Marquess of Salisbury.
Marquess of Zetland.
Marquess of Linlithgow.
Marquess of Reading.
Earl of Derby.
Earl of Lytton.
Earl Peel.
Lord Middleton.
Lord Ker (M. Lothian).
Lord Hardinge of Penshurst.
Lord Snell.
Lord Rankeillour.
Lord Hutchison of Montrose.

Mr. Attlee.
Mr. Butler.
Major Cadogan.
Sir Austen Chamberlain.
Mr. Cocks.
Sir Reginald Craddock.
Mr. Davidson.
Mr. Foot.
Sir Samuel Hoare.
Mr. Morgan Jones.
Lord Eustace Percy.
Miss Pickford.
Sir John Wardlaw-Milne
Earl Winterton.

The Marquess of Linlithgow in the Chair.

The Order of Adjournment is read.

The Proceedings of Tuesday last are read.

The Committee again proceed to discuss the proposals contained in the White Paper (*vide* Appendices, Vol. I, Part I) and matters arising therefrom.

Ordered that the Committee be adjourned to Monday next at half-past four o'clock.

Die Lunae 5° Februarii 1934

Present :

LORD CHANCELLOR.
MARQUESS OF SALISBURY.
MARQUESS OF ZETLAND.
MARQUESS OF LINLITHGOW.
MARQUESS OF READING.
EARL OF DERBY.
EARL OF LYTTON.
EARL PEEL.
LORD MIDDLETON.
LORD KER (M. LOTHIAN).
LORD HARDINGE OF PENSHURST.
LORD IRWIN.
LORD SNELL.
LORD RANKEILLOUR.
LORD HUTCHISON OF MONTROSE.
MR. ATTLEE.
MR. BUTLER.
MAJOR CADOGAN.
SIR AUSTEN CHAMBERLAIN.
MR. COCKS.
SIR REGINALD CRADDOCK.
MR. DAVIDSON.
MR. FOOT.
SIR SAMUEL HOARE.
LORD EUSTACE PERCY.
MISS PICKFORD.
SIR JOHN WARDLAW-MILNE.

THE MARQUESS OF LINLITHGOW in the Chair.

The Order of Adjournment is read.

The Proceedings of Friday last are read.

It is moved by the Chairman, that a letter be addressed to the relatives of Mr. Rangaswami Iyengar to express the sympathy of the Committee with them on the death of Mr. Rangaswami Iyengar and their deep appreciation of his work as a member of the British India Delegation to the Committee.

The same is agreed to.

The Committee again proceed to discuss the proposals contained in the White Paper (*vide* Appendices, Vol. I, Part I) and matters arising therefrom.

Ordered that the Committee be adjourned till to-morrow at half-past ten o'clock.

Die Martis 6° Februarii 1934

Present :

LORD ARCHBISHOP OF CANTERBURY.
LORD CHANCELLOR.
MARQUESS OF SALISBURY.
MARQUESS OF ZETLAND.
MARQUESS OF READING.
EARL OF DERBY.
EARL OF LYTTON.
EARL PEEL.
LORD MIDDLETON.
LORD KER (M. LOTHIAN).
LORD HARDINGE OF PENSHURST.
LORD IRWIN.
LORD SNELL.
LORD RANKEILLOUR.
LORD HUTCHISON OF MONTROSE.
MR. BUTLER.
MAJOR CADOGAN.
SIR AUSTEN CHAMBERLAIN.
SIR REGINALD CRADDOCK.
MR. DAVIDSON.
MR. FOOT.
SIR SAMUEL HOARE.
MR. MORGAN JONES.
LORD EUSTACE PERCY.
MISS PICKFORD.
SIR JOHN WARDLAW-MILNE.
EARL WINTERTON.

SIR AUSTEN CHAMBERLAIN in the Chair.

The Order of Adjournment is read.

The Proceedings of yesterday are read.

The Committee again proceed to discuss the proposals contained in the White Paper (*vide* Appendices, Vol. I, Part I) and matters arising therefrom.

Ordered that the Committee be adjourned till to-morrow at half-past two o'clock.

Die Mercurii 7° Februarii 1934

Present :

LORD ARCHBISHOP OF CANTERBURY.
MARQUESS OF SALISBURY.
MARQUESS OF ZETLAND.
MARQUESS OF READING.
EARL OF DERBY.
EARL OF LYTTON.
EARL PEEL.
LORD MIDDLETON.
LORD KER (M. LOTHIAN).
LORD HARDINGE OF PENSHURST.
LORD IRWIN.
LORD SNELL.
LORD RANKEILLOUR.
LORD HUTCHISON OF MONTROSE.

MR. ATTLEE.
MR. BUTLER.
MAJOR CADOGAN.
SIR AUSTEN CHAMBERLAIN.
MR. COCKS.
SIR REGINALD CRADDOCK.
MR. DAVIDSON.
MR. FOOT.
SIR SAMUEL HOARE.
MR. MORGAN JONES.
SIR JOSEPH NALL.
LORD EUSTACE PERCY.
MISS PICKFORD.
SIR JOHN WARDLAW MILNE.
EARL WINTERTON.

SIR AUSTEN CHAMBERLAIN in the Chair.

The Order of Adjournment is read.

The Proceedings of yesterday are read.

The Committee again proceed to discuss the proposals contained in the White Paper (*vide* Appendices, Vol. I, Part I) and matters arising therefrom.

Ordered that the Committee be adjourned to Friday at half past ten o'clock.

Die Veneris 9° Februarii 1934

Present :

LORD CHANCELLOR.
MARQUESS OF SALISBURY.
MARQUESS OF ZETLAND.
MARQUESS OF READING.
EARL OF DERBY.
EARL OF LYTTON.
EARL PEEL.
LORD MIDDLETON
LORD HARDINGE OF PENSHURST.
LORD IRWIN.
LORD SNELL
LORD RANKEILLOUR.
LORD HUTCHISON OF MONTROSE.

MR. ATTLEE.
MR. BUTLER.
MAJOR CADOGAN.
SIR AUSTEN CHAMBERLAIN.
MR. COCKS.
SIR REGINALD CRADDOCK.
MR. DAVIDSON.
MR. FOOT.
SIR SAMUEL HOARE.
MR. MORGAN JONES.
LORD EUSTACE PERCY.
MISS PICKFORD.
SIR JOHN WARDLAW-MILNE.

SIR AUSTEN CHAMBERLAIN in the Chair.

The Order of Adjournment is read.

The Proceedings of Wednesday last are read.

The Committee again proceed to discuss the proposals contained in the White Paper (*vide* Appendices, Vol. I, Part I) and matters arising therefrom.

Ordered that the Committee be adjourned to Monday next at half-past four o'clock.

Die Lunae 12° Februarii 1934

Present.

Lord Archbishop of Canterbury.
Lord Chancellor
Marquess of Salisbury.
Marquess of Zetland.
Marquess of Linlithgow.
Marquess of Reading.
Earl of Derby.
Earl of Lytton.
Earl Peel.
Lord Middleton.
Lord Kerr (M. Lothian).
Lord Hardinge of Penshurst.
Lord Irwin.
Lord Snell.
Lord Rankeillour.
Lord Hutchison of Montrose.

Mr. Attlee.
Mr. Butler.
Major Cadogan.
Sir Austen Chamberlain
Mr. Cocks.
Sir Reginald Craddock.
Mr. Davidson.
Mr. Foot
Sir Samuel Hoare.
Mr Morgan Jones.
Lord Eustace Percy.
Miss Pickford.
Sir John Wardlaw-Milne.
Earl Winterton.

The Marquess of Linlithgow in the Chair.

The Order of Adjournment is read.

The Proceedings of Friday last are read.

The Committee again proceed to discuss the proposals contained in the White Paper (*vide* Appendices, Vol. I, Part I) and matters arising therefrom.

Ordered that the Committee be adjourned till to-morrow at half past ten o'clock

Die Martis 13° Februarii 1934

Present :

Lord Archbishop of Canterbury.
Marquess of Zetland.
Marquess of Linlithgow.
Marquess of Reading.
Earl of Derby.
Earl of Lytton.
Earl Peel.
Lord Middleton.
Lord Kerr (M. Lothian).
Lord Hardinge of Penshurst.
Lord Irwin.
Lord Snell.
Lord Rankeillour.
Lord Hutchison of Montrose.

Mr. Attlee.
Mr. Butler.
Major Cadogan.
Sir Austen Chamberlain.
Mr Cocks.
Sir Reginald Craddock.
Mr. Davidson.
Mr Foot.
Sir Samuel Hoare.
Mr Morgan Jones.
Sir Joseph Nall.
Lord Eustace Percy.
Miss Pickford.
Sir John Wardlaw-Milne.
Earl Winterton.

The Marquess of Linlithgow in the Chair.

The Order of Adjournment is read.

The Proceedings of yesterday are read.

The Committee again proceed to discuss the proposals contained in the White Paper (*vide* Appendices, Vol. I Part I) and matters arising therefrom.

Ordered that the Committee be adjourned till to morrow at half-past ten o'clock.

Die Mercurii 14° Februarii 1934

Present :

Lord Archbishop of Canterbury.
Marquess of Zetland.
Marquess of Linlithgow.
Marquess of Reading.
Earl of Derby.
Earl of Lytton.
Earl Peel.
Lord Middleton.
Lord Ker (M. Lothian).
Lord Irwin.
Lord Snell.
Lord Rankeillour.
Lord Hutchison of Montrose.
Mr. Butler.
Major Cadogan.
Sir Austen Chamberlain.
Sir Reginald Craddock.
Mr. Davidson.
Mr. Foot.
Sir Samuel Hoare.
Mr. Morgan Jones.
Lord Eustace Percy.
Miss Pickford.
Sir John Wardlaw-Milne.

The Marquess of Linlithgow in the Chair.

The Order of Adjournment is read.
The Proceedings of yesterday are read.
The Committee again proceed to discuss the proposals contained in the White Paper (*vide* Appendices, Vol. I, Part I) and matters arising therefrom.
Ordered that the Committee be adjourned to Friday next at half-past ten o'clock.

Die Veneris 16° Februarii 1934

Present :

Lord Archbishop of Canterbury.
Marquess of Salisbury.
Marquess of Zetland.
Marquess of Linlithgow.
Marquess of Reading.
Earl of Derby.
Earl of Lytton.
Earl Peel.
Lord Middleton.
Lord Ker (M. Lothian).
Lord Irwin.
Lord Snell.
Lord Rankeillour.
Lord Hutchison of Montrose.
Mr. Butler.
Major Cadogan.
Sir Austen Chamberlain
Sir Reginald Craddock.
Mr. Davidson.
Mr. Foot.
Sir Samuel Hoare.
Mr. Morgan Jones.
Sir Joseph Nall.
Lord Eustace Percy.
Miss Pickford.
Sir John Wardlaw-Milne.
Earl Winterton.

The Marquess of Linlithgow in the Chair.

The Order of Adjournment is read.
The Proceedings of Wednesday last are read.
The Committee again proceed to discuss the proposals contained in the White Paper (*vide* Appendices, Vol. I, Part I) and matters arising therefrom.
Ordered that the Committee be adjourned to Monday next at half-past four o'clock.

Die Lunae 19° Februarii 1934

Present :

LORD ARCHBISHOP OF CANTERBURY.
MARQUESS OF SALISBURY.
MARQUESS OF ZETLAND.
MARQUESS OF LINLITHGOW.
MARQUESS OF READING.
EARL OF DERBY.
EARL PEEL.
LORD MIDDLETON.
LORD KERR (M. LOTHIAN).
LORD IRWIN.
LORD SNELL.
LORD RANKEILLOUR.

MR. ATTLEE.
MR. BUTLER.
MAJOR CADOGAN.
MR. COCKS.
SIR REGINALD CRADDOCK.
MR. DAVIDSON.
MR. FOOT.
SIR SAMUEL HOARE.
MR. MORGAN JONES.
SIR JOSEPH NALL.
LORD EUSTACE PERCY.
MISS PICKFORD.
SIR JOHN WARDLAW-MILNE.

THE MARQUESS OF LINLITHGOW in the Chair.

The Order of Adjournment is read.

The Proceedings of Friday last are read.

The Committee again proceed to discuss the proposals contained in the White Paper (*vide* Appendices, Vol. I, Part I) and matters arising therefrom.

Ordered that the Committee be adjourned till to-morrow at half past ten o'clock.

Die Martis 20° Februarii 1934

Present :

LORD ARCHBISHOP OF CANTERBURY.
MARQUESS OF SALISBURY.
MARQUESS OF ZETLAND.
MARQUESS OF LINLITHGOW.
MARQUESS OF READING.
EARL OF DERBY.
EARL OF LYTTON.
EARL PEEL.
LORD MIDDLETON.
LORD KERR (M. LOTHIAN).
LORD HARDINGE OF PENSHURST.
LORD IRWIN.
LORD SNELL.
LORD RANKEILLOUR.
LORD HUTCHISON OF MONTROSE.

MR. ATTLEE.
MR. BUTLER.
MAJOR CADOGAN.
MR. COCKS.
SIR REGINALD CRADDOCK.
MR. DAVIDSON.
MR. FOOT.
SIR SAMUEL HOARE.
MR. MORGAN JONES.
SIR JOSEPH NALL.
LORD EUSTACE PERCY.
MISS PICKFORD.
SIR JOHN WARDLAW MILNE.
EARL WINTERTON.

THE MARQUESS OF LINLITHGOW in the Chair.

The Order of Adjournment is read.

The Proceedings of yesterday are read.

The Committee again proceed to discuss the proposals contained in the White Paper (*vide* Appendices, Vol. I, Part I) and matters arising therefrom.

Ordered that the Committee be adjourned to Friday next at half past ten o'clock.

Die Veneris 23° Februarii 1934

Present :

Lord Archbishop of Canterbury.
Marquess of Zetland.
Marquess of Linlithgow.
Marquess of Reading
Earl of Derby.
Earl of Lytton.
Earl Peel.
Lord Middleton.
Lord Irwin.
Lord Snell.
Lord Rankeillour.

Mr. Attlee.
Mr. Butler.
Major Cadogan.
Sir Austen Chamberlain.
Mr. Cocks.
Sir Reginald Craddock.
Mr. Davidson.
Mr. Foot.
Sir Samuel Hoare.
Mr. Morgan Jones.
Lord Eustace Percy.
Miss Pickford.
Sir John Wardlaw-Milne.

The Marquess of Linlithgow in the Chair.

The Order of Adjournment is read.
The Proceedings of Tuesday last are read.
The Committee again proceed to discuss the proposals contained in the White Paper (*vide* Appendices, Vol. I, Part I) and matters arising therefrom.
Ordered that the Committee be adjourned to Monday next at half-past four o'clock.

Die Lunae 26° Februarii 1934

Present :

Lord Archbishop of Canterbury.
Marquess of Zetland.
Marquess of Linlithgow.
Marquess of Reading.
Earl of Derby.
Earl Peel.
Lord Middleton.
Lord Ker (M. Lothian).
Lord Irwin.
Lord Snell.
Lord Rankeillour

Mr. Attlee.
Mr. Butler.
Major Cadogan.
Sir Austen Chamberlain.
Sir Reginald Craddock.
Mr. Davidson.
Mr. Foot.
Sir Samuel Hoare.
Mr. Morgan Jones.
Lord Eustace Percy.
Miss Pickford.
Sir John Wardlaw-Milne.
Earl Winterton.

The Marquess of Linlithgow in the Chair.

The Order of Adjournment is read.
The Proceedings of Friday last are read.
The Committee again proceed to discuss the proposals contained in the White Paper (*vide* Appendices, Vol. I, Part I) and matters arising therefrom.
Ordered that the Committee be adjourned till to-morrow at half-past ten o'clock.

Die Martis 27° Februarii 1934

Present

Lord Archbishop of Canterbury.
Marquess of Zetland.
Marquess of Linlithgow.
Marquess of Reading.
Earl of Derby.
Earl Peel.
Lord Middleton.
Lord Ker (M. Lothian).
Lord Hardinge of Penshurst.
Lord Irwin.
Lord Snell.
Lord Rankeillour.
Lord Hutchison of Montrose.

Mr. Butler.
Major Cadogan.
Sir Austen Chamberlain.
Mr. Cocks.
Sir Reginald Craddock.
Mr. Davidson.
Mr. Foot.
Sir Samuel Hoare.
Mr. Morgan Jones.
Sir Joseph Nall.
Lord Eustace Percy.
Miss Pickford.
Sir John Wardlaw-Milne.

The Marquess of Linlithgow in the Chair.

The Order of Adjournment is read.
The Proceedings of yesterday are read.
The Committee again proceed to discuss the proposals contained in the White Paper (*vide* Appendices, Vol. I, Part I) and matters arising therefrom.
Ordered that the Committee be adjourned till to-morrow at half-past two o'clock.

Die Mercurii 28° Februarii 1934

Present

Lord Archbishop of Canterbury.
Marquess of Zetland.
Marquess of Linlithgow.
Marquess of Reading.
Earl of Derby.
Earl Peel.
Lord Middleton.
Lord Ker (M. Lothian).
Lord Hardinge of Penshurst.
Lord Irwin.
Lord Snell.
Lord Rankeillour.
Lord Hutchison of Montrose.

Mr. Attlee.
Mr. Butler.
Major Cadogan.
Sir Austen Chamberlain.
Mr. Cocks.
Sir Reginald Craddock.
Mr. Davidson.
Mr. Foot.
Sir Joseph Nall.
Lord Eustace Percy.
Earl Winterton.

The Marquess of Linlithgow in the Chair.

The Order of Adjournment is read.
The Proceedings of yesterday are read.
The Committee again proceed to discuss the proposals contained in the White Paper (*vide* Appendices, Vol. I, Part I) and matters arising therefrom.
Ordered that the Committee be adjourned to Tuesday the 6th of March next at half-past ten o'clock.

Die Martis 6° Martii 1934

Present :

LORD ARCHBISHOP OF CANTERBURY.
MARQUESS OF ZETLAND.
MARQUESS OF LINLITHGOW.
MARQUESS OF READING.
EARL OF DERBY.
EARL PEEL.
LORD MIDDLETON.
LORD KER (M. LOTHIAN).
LORD HARDINGE OF PENSHURST.
LORD SNELL.
LORD RANKEILLOUR.
LORD HUTCHISON OF MONTROSE.
MR. BUTLER.
MAJOR CADOGAN.
SIR AUSTEN CHAMBERLAIN.
MR. COCKS.
SIR REGINALD CRADDOCK.
MR. DAVIDSON.
MR. FOOT.
SIR SAMUEL HOARE.
MR. MORGAN JONES.
SIR JOSEPH NALL.
LORD EUSTACE PERCY.
SIR JOHN WARDLAW MILNE.
EARL WINTERTON.

THE MARQUESS OF LINLITHGOW in the Chair.

The Order of Adjournment is read.
The Proceedings of Wednesday, the 28th of February last, are read.
The Committee again proceed to discuss the proposals contained in the White Paper (*vide* Appendices, Vol. I, Part I) and matters arising therefrom.
Ordered that the Committee be adjourned till to-morrow at half-past two o'clock.

Die Mercurii 7° Martii 1934

Present :

LORD ARCHBISHOP OF CANTERBURY.
MARQUESS OF ZETLAND.
MARQUESS OF LINLITHGOW.
MARQUESS OF READING.
EARL OF DERBY.
EARL PEEL.
VISCOUNT HALIFAX.
LORD MIDDLETON.
LORD KER (M. LOTHIAN).
LORD HARDINGE OF PENSHURST.
LORD SNELL.
LORD RANKEILLOUR.
LORD HUTCHISON OF MONTROSE.
MR. ATTLEE.
MR. BUTLER.
MAJOR CADOGAN.
SIR AUSTEN CHAMBERLAIN.
SIR REGINALD CRADDOCK.
MR. DAVIDSON.
MR. FOOT.
SIR SAMUEL HOARE.
MR. MORGAN JONES.
SIR JOSEPH NALL.
LORD EUSTACE PERCY.
SIR JOHN WARDLAW MILNE.
EARL WINTERTON.

THE MARQUESS OF LINLITHGOW in the Chair.

The Order of Adjournment is read.
The Proceedings of yesterday are read.
It is moved by the Chairman, That a letter be addressed to the relatives of Miss Pickford to express the sympathy of the Committee with them on the death of Miss Pickford and their deep appreciation of her work as a member of the Committee.
The same is agreed to.
The Committee again proceed to discuss the proposals contained in the White Paper (*vide* Appendices, Vol. I, Part I) and matters arising therefrom.
Ordered that the Committee be adjourned to Friday next at half-past ten o'clock.

Die Veneris 9° Martii 1934

Present :

Lord Archbishop of Canterbury.
Marquess of Salisbury.
Marquess of Zetland.
Marquess of Linlithgow.
Marquess of Reading.
Earl of Derby.
Earl Peel.
Lord Middleton.
Lord Ker (M. Lothian).
Lord Hardinge of Penshurst.
Lord Snell.
Lord Rankeillour.
Lord Hutchison of Montrose.

Mr. Attlee.
Mr. Butler.
Major Cadogan.
Sir Austen Chamberlain.
Sir Reginald Craddock.
Mr. Davidson.
Mr. Foot.
Sir Samuel Hoare.
Mr. Morgan Jones.
Lord Eustace Percy.
Sir John Wardlaw Milne.
Earl Winterton.

The Marquess of Linlithgow in the Chair.

The Order of Adjournment is read.

The Proceedings of Wednesday last are read.

The Committee again proceed to discuss the proposals contained in the White Paper (*vide* Appendices, Vol. I, Part I) and matters arising therefrom.

Ordered that the Committee be adjourned to Monday next at half-past four o'clock

Die Lunae 12° Martii 1934

Present

Lord Archbishop of Canterbury.
Marquess of Salisbury.
Marquess of Zetland.
Marquess of Linlithgow.
Marquess of Reading.
Earl of Derby.
Earl Peel.
Viscount Halifax.
Lord Middleton.
Lord Ker (M. Lothian).
Lord Hardinge of Penshurst.
Lord Snell
Lord Rankeillour
Lord Hutchison of Montrose

Mr. Attlee.
Mr. Butler.
Major Cadogan.
Sir Austen Chamberlain.
Sir Reginald Craddock.
Mr. Davidson
Mr. Foot.
Sir Samuel Hoare.
Mr. Morgan Jones.
Lord Eustace Percy.
Earl Winterton.

The Marquess of Linlithgow in the Chair.

The Order of Adjournment is read.

The Proceedings of Friday last are read.

The Committee again proceed to discuss the proposals contained in the White Paper (*vide* Appendices, Vol. I Part I) and matters arising therefrom.

The Chairman is heard to inform the Committee, that a telegram has been received from U Thein Maung, on behalf of the Delegation from Burma, expressing their sympathy with the relatives of the late Miss Pickford, and their appreciation of her work as a member of the Committee.

Ordered that the Committee be adjourned till to-morrow at half-past ten o'clock.

Die Martis 13° Martii 1934

Present:

LORD ARCHBISHOP OF CANTERBURY.
MARQUESS OF SALISBURY.
MARQUESS OF ZETLAND.
MARQUESS OF LINLITHGOW.
MARQUESS OF READING.
EARL OF DERBY.
EARL PEEL.
VISCOUNT HALIFAX.
LORD MIDDLETON.
LORD KER (M. LOTHIAN).
LORD HARDINGE OF PENSHURST.
LORD SNELL.
LORD RANKEILLOUR.
LORD HUTCHISON OF MONTROSE.
MR. ATTLEE.
MR. BUTLER.
MAJOR CADOGAN.
SIR AUSTEN CHAMBERLAIN.
MR. COCKS.
SIR REGINALD CRADDOCK.
MR. DAVIDSON.
MR. FOOT.
SIR SAMUEL HOARE.
MR. MORGAN JONES.
LORD EUSTACE PERCY.

THE MARQUESS OF LINLITHGOW in the Chair.

The Order of Adjournment is read.

The Proceedings of yesterday are read.

The Committee again proceed to discuss the proposals contained in the White Paper (*vide* Appendices, Vol. I, Part I) and matters arising therefrom.

Ordered that the Committee be adjourned till to-morrow at half past ten o'clock.

Die Mercurii 14° Martii 1934

Present:

LORD ARCHBISHOP OF CANTERBURY.
MARQUESS OF SALISBURY.
MARQUESS OF ZETLAND.
MARQUESS OF LINLITHGOW.
MARQUESS OF READING.
EARL OF DERBY.
EARL PEEL.
VISCOUNT HALIFAX.
LORD MIDDLETON.
LORD KER (M. LOTHIAN).
LORD HARDINGE OF PENSHURST.
LORD SNELL.
LORD RANKEILLOUR.
LORD HUTCHISON OF MONTROSE.
MR. ATTLEE.
MR. BUTLER.
MAJOR CADOGAN.
SIR AUSTEN CHAMBERLAIN.
MR. COCKS.
SIR REGINALD CRADDOCK.
MR. DAVIDSON.
MR. FOOT.
SIR SAMUEL HOARE.
SIR JOSEPH NALL.
LORD EUSTACE PERCY.
EARL WINTERTON.

THE MARQUESS OF LINLITHGOW in the Chair.

The Order of Adjournment is read.

The Proceedings of yesterday are read.

The Secretary of State for India is heard to request the leave of the Committee to lay Record B 2 before them being Memoranda submitted by the Delegates from Burma after the termination of their discussions with the Joint Committee.

Ordered that Record B 2 be *printed* and be laid before both Houses of Parliament (*vide* Vol. II (Session 1933-34) Records pp. 177-274).

The Committee again proceed to discuss the proposals contained in the White Paper (*vide* Appendices, Vol. I, Part I) and matters arising therefrom.

Ordered that the Committee be adjourned to Friday next at half past ten o'clock.

Die Veneris 16° Martii 1934

Present:

LORD ARCHBISHOP OF CANTERBURY.
MARQUESS OF SALISBURY.
MARQUESS OF ZETLAND.
MARQUESS OF READING.
EARL OF DERBY.
EARL PEEL.
VISCOUNT HALIFAX.
LORD MIDDLETON.
LORD KER (M. LOTHIAN).
LORD HARDINGE OF PENSHURST.
LORD SNELL.
LORD RANKEILLOUR.
LORD HUTCHISON OF MONTROSE.
MR. ATTLEE.
MR. BUTLER.
MAJOR CADOGAN.
SIR AUSTEN CHAMBERLAIN.
MR. COCKS.
SIR REGINALD CRADDOCK.
MR. DAVIDSON.
SIR SAMUEL HOARE.
MR. MORGAN JONES.
SIR JOSEPH NALL.
LORD EUSTACE PERCY.
SIR JOHN WARDLAW MILNE.
EARL WINTERTON.

SIR AUSTEN CHAMBERLAIN in the Chair.

The Order of Adjournment is read.

The Proceedings of Wednesday last are read.

The Committee again proceed to discuss the proposals contained in the White Paper (*vide* Appendices, Vol. I, Part I) and matters arising therefrom.

Ordered that the Committee be adjourned to Monday next at half past four o'clock.

Die Lunae 19° Martii 1934

Present:

LORD ARCHBISHOP OF CANTERBURY.
MARQUESS OF SALISBURY.
MARQUESS OF ZETLAND.
MARQUESS OF READING.
EARL OF DERBY.
EARL PEEL.
VISCOUNT HALIFAX.
LORD KER (M. LOTHIAN).
LORD HARDINGE OF PENSHURST.
LORD SNELL.
LORD RANKEILLOUR.
LORD HUTCHISON OF MONTROSE.
MR. ATTLEE.
MR. BUTLER.
MAJOR CADOGAN.
MR. COCKS.
SIR REGINALD CRADDOCK.
MR. DAVIDSON.
MR. FOOT.
SIR SAMUEL HOARE.
MR. MORGAN JONES.
SIR JOSEPH NALL.
LORD EUSTACE PERCY.
SIR JOHN WARDLAW MILNE.
EARL WINTERTON.

THE LORD ARCHBISHOP OF CANTERBURY in the Chair.

The Order of Adjournment is read.

The Proceedings of Friday last are read.

The Committee again proceed to discuss the proposals contained in the White Paper (*vide* Appendices, Vol. I, Part I) and matters arising therefrom.

Ordered that the Committee be adjourned till to-morrow at half past ten o'clock.

Die Martis 20° Martii 1934

Present:

Lord Archbishop of Canterbury.
Marquess of Salisbury.
Marquess of Zetland.
Marquess of Linlithgow.
Marquess of Reading.
Earl of Derby.
Earl Peel.
Viscount Halifax.
Lord Middleton.
Lord Ker (M. Lothian).
Lord Hardinge of Penshurst.
Lord Snell.
Lord Rankeillour.
Lord Hutchison of Montrose.

Mr. Attlee.
Mr. Butler.
Major Cadogan.
Sir Austen Chamberlain.
Sir Reginald Craddock.
Mr. Davidson.
Mr. Foot.
Sir Samuel Hoare.
Sir Joseph Nall.
Lord Eustace Percy.
Earl Winterton.

Sir Austen Chamberlain in the Chair.

The Order of Adjournment is read.
The Proceedings of yesterday are read.
The Committee again proceed to discuss the proposals contained in the White Paper (*vide* Appendices, Vol. 1, Part I) and matters arising therefrom.

Ordered that the Committee be adjourned till to-morrow at half-past two o'clock.

Die Mercurii 21° Martii 1934

Present.

Lord Archbishop of Canterbury.
Marquess of Salisbury.
Marquess of Zetland.
Marquess of Reading.
Earl of Derby.
Earl of Lytton.
Earl Peel.
Viscount Halifax.
Lord Middleton.
Lord Ker (M. Lothian).
Lord Hardinge of Penshurst.
Lord Snell.
Lord Hutchison of Montrose.

Mr. Attlee.
Mr. Butler.
Major Cadogan.
Sir Austen Chamberlain.
Sir Reginald Craddock.
Mr. Davidson.
Mr. Foot.
Sir Samuel Hoare.
Mr. Morgan Jones.
Sir Joseph Nall.
Lord Eustace Percy.
Sir John Wardlaw-Milne.
Earl Winterton.

Sir Austen Chamberlain in the Chair.

The Order of Adjournment is read.
The Proceedings of yesterday are read.
The Committee again proceed to discuss the proposals contained in the White Paper (*vide* Appendices, Vol. I, Part I) and matters arising therefrom.

Ordered that the Committee be adjourned to Friday next at half-past ten o'clock.

Die Veneris 23° Martii 1934

Present.

Lord Archbishop of Canterbury
Marquess of Salisbury.
Marquess of Zetland.
Marquess of Reading.
Earl Peel.
Lord Middleton.
Lord Ker (M. Lothian).
Lord Hardinge of Penshurst.
Lord Snell.
Lord Rankeillour.
Lord Hutchison of Montrose.
Mr. Attlee.
Mr. Butler.
Sir Austen Chamberlain.
Sir Reginald Craddock.
Mr. Davidson.
Sir Samuel Hoare.
Lord Eustace Percy
Sir John Wardlaw-Milne.
Earl Winterton.

Sir Austen Chamberlain in the Chair.

The Order of Adjournment is read

The Proceedings of Wednesday last are read.

The Committee again proceed to discuss the proposals contained in the White Paper (*vide* Appendices, Vol. I, Part I) and matters arising therefrom.

Ordered that the Committee be adjourned to Monday next at half-past four o'clock.

Die Lunae 26° Martii 1934

Present.

Lord Archbishop of Canterbury.
Marquess of Salisbury.
Marquess of Zetland.
Marquess of Linlithgow.
Marquess of Reading.
Earl of Derby.
Earl of Lytton.
Earl Peel.
Viscount Halifax.
Lord Middleton.
Lord Ker (M. Lothian).
Lord Hardinge of Penshurst.
Lord Snell.
Lord Rankeillour.
Lord Hutchison of Montrose.
Mr. Attlee.
Mr. Butler.
Major Cadogan.
Sir Austen Chamberlain.
Mr. Cocks.
Sir Reginald Craddock.
Mr. Davidson.
Mr. Foot.
Sir Samuel Hoare.
Mr. Morgan Jones.
Lord Eustace Percy.
Sir John Wardlaw-Milne.
Earl Winterton.

The Marquess of Linlithgow in the Chair.

The Order of Adjournment is read.

The Proceedings of Friday last are read.

The Committee again proceed to discuss the proposals contained in the White Paper (*vide* Appendices, Vol. I, Part I) and matters arising therefrom.

Ordered that the Committee be adjourned till to-morrow at half-past four o'clock.

Die Martis 27° Martii 1934

Present :

MARQUESS OF SALISBURY.
MARQUESS OF ZETLAND.
MARQUESS OF LINLITHGOW.
EARL OF DERBY.
EARL PEEL.
VISCOUNT HALIFAX.
LORD MIDDLETON.
LORD KER (M. LOTHIAN).
LORD HARDINGE OF PENSHURST.
LORD HUTCHISON OF MONTROSE.
MR. ATTLEE.
MR. BUTLER.
MAJOR CADOGAN.
SIR AUSTEN CHAMBERLAIN.
MR. COCKS.
SIR REGINALD CRADDOCK.
MR. DAVIDSON.
MR. FOOT.
SIR SAMUEL HOARE.
MR. MORGAN JONES.
SIR JOSEPH NALL.
LORD EUSTACE PERCY.
SIR JOHN WARDLAW MILNE.
EARL WINTERTON

THE MARQUESS OF LINLITHGOW in the Chair.

The Order of Adjournment is read.
The Proceedings of yesterday are read.
The Committee again proceed to discuss the proposals contained in the White Paper (*vide* Appendices, Vol. I, Part I) and matters arising therefrom.
Ordered that the Committee be adjourned till to morrow at half-past two o'clock.

Die Mercurii 28° Martii 1934

Present .

LORD ARCHBISHOP OF CANTERBURY.
MARQUESS OF SALISBURY.
MARQUESS OF ZETLAND.
MARQUESS OF LINLITHGOW.
MARQUESS OF READING.
EARL OF LYTTON.
EARL PEEL.
VISCOUNT HALIFAX.
LORD MIDDLETON
LORD KER (M. LOTHIAN).
LORD HARDINGE OF PENSHURST.
LORD SNELL.
LORD RANKEILLOUR.
LORD HUTCHISON OF MONTROSE
MR. ATTLEE.
MR. BUTLER.
MAJOR CADOGAN.
SIR AUSTEN CHAMBERLAIN.
MR. COCKS.
SIR REGINALD CRADDOCK.
MR. DAVIDSON.
MR. FOOT.
SIR SAMUEL HOARE.
LORD EUSTACE PERCY.
SIR JOHN WARDLAW-MILNE.
EARL WINTERTON.

THE MARQUESS OF LINLITHGOW in the Chair.

The Order of Adjournment is read.
The Proceedings of yesterday are read.
The Committee again proceed to discuss the proposals containeed in the White Paper (*vide* Appendices, Vol. I, Part I) and matters arising therefrom.
Ordered that the Committee be adjourned to Tuesday the 17th of April next at half-past ten o'clock.

Die Martis 17° Aprilis 1934

Present :

LORD ARCHBISHOP OF CANTERBURY.
LORD CHANCELLOR.
MARQUESS OF SALISBURY.
MARQUESS OF ZETLAND.
MARQUESS OF LINLITHGOW.
MARQUESS OF READING.
EARL OF DERBY.
EARL OF LYTTON.
EARL PEEL.
VISCOUNT HALIFAX.
LORD MIDDLETON.
LORD KER (M. LOTHIAN).
LORD HARDINGE OF PENSHURST.
LORD SNELL.
LORD RANKEILLOUR.
MR. ATTLEE.
MR. BUTLER.
MAJOR CADOGAN.
MR. COCKS.
SIR REGINALD CRADDOCK.
MR. DAVIDSON.
MR. FOOT.
SIR SAMUEL HOARE.
MR. MORGAN JONES.
LORD EUSTACE PERCY.
SIR JOHN WARDLAW-MILNE.
EARL WINTERTON.

THE MARQUESS OF LINLITHGOW in the Chair.

The Order of Adjournment is read.

The Proceedings of Wednesday the 28th of March last are read.

The Committee again proceed to discuss the proposals contained in the White Paper (*vide* Appendices, Vol. I, Part I) and matters arising therefrom.

Ordered that the Committee be adjourned till to-morrow at half-past two o'clock.

Die Mercurii 18° Aprilis 1934

Present :

LORD ARCHBISHOP OF CANTERBURY.
MARQUESS OF SALISBURY.
MARQUESS OF ZETLAND.
MARQUESS OF LINLITHGOW.
MARQUESS OF READING.
EARL OF DERBY.
EARL OF LYTTON.
EARL PEEL.
VISCOUNT HALIFAX.
LORD MIDDLETON.
LORD KER (M. LOTHIAN).
LORD HARDINGE OF PENSHURST.
LORD RANKEILLOUR.
LORD HUTCHISON OF MONTROSE.
MR. ATTLEE.
MR. BUTLER.
MAJOR CADOGAN.
SIR AUSTEN CHAMBERLAIN.
MR. COCKS.
SIR REGINALD CRADDOCK.
MR. DAVIDSON.
SIR SAMUEL HOARE.
LORD EUSTACE PERCY.
SIR JOHN WARDLAW MILNE.
EARL WINTERTON.

THE MARQUESS OF LINLITHGOW in the Chair.

The Order of Adjournment is read.

The Proceedings of yesterday are read.

The Committee again proceed to discuss the proposals contained in the White Paper (*vide* Appendices, Vol. I, Part I) and matters arising therefrom.

Ordered that the Committee be adjourned to Friday next at half-past ten o'clock.

Die Veneris 20° Aprilis 1934

Present :

LORD ARCHBISHOP OF CANTERBURY.
MARQUESS OF SALISBURY.
MARQUESS OF ZETLAND.
MARQUESS OF LINLITHGOW.
MARQUESS OF READING.
EARL OF DERBY.
EARL OF LYTTON.
EARL PEEL.
VISCOUNT HALIFAX.
LORD MIDDLETON.
LORD KER (M. LOTHIAN).
LORD HARDINGE OF PENSHURST.
LORD SNELL.
LORD RANKEILLOUR.
LORD HUTCHISON OF MONTROSE.
MR. ATTLEE.
MR. BUTLER.
MAJOR CADOGAN.
MR. COCKS.
SIR REGINALD CRADDOCK.
MR. DAVIDSON.
MR. MORGAN JONES.
LORD EUSTACE PERCY.
SIR JOHN WARDLAW-MILNE.

THE MARQUESS OF LINLITHGOW in the Chair.

The Order of Adjournment is read.

The Proceedings of Wednesday last are read.

The Committee again proceed to discuss the proposals contained in the White Paper (*vide* Appendices, Vol. I. Part I) and matters arising therefrom.

Ordered that the Committee be adjourned to Tuesday next at half-past ten o'clock.

Die Martis 24° Aprilis 1934

Present

LORD ARCHBISHOP OF CANTERBURY.
LORD CHANCELLOR.
MARQUESS OF SALISBURY.
MARQUESS OF ZETLAND.
MARQUESS OF LINLITHGOW.
MARQUESS OF READING.
EARL OF DERBY.
EARL OF LYTTON.
EARL PEEL.
VISCOUNT HALIFAX.
LORD MIDDLETON.
LORD KER (M. LOTHIAN).
LORD HARDINGE OF PENSHURST.
LORD SNELL.
LORD RANKEILLOUR.
LORD HUTCHISON OF MONTROSE.
MR. ATTLEE.
MR. BUTLER.
MAJOR CADOGAN.
SIR AUSTEN CHAMBERLAIN.
MR. COCKS.
SIR REGINALD CRADDOCK.
MR. DAVIDSON.
SIR SAMUEL HOARE.
MR. MORGAN JONES.
LORD EUSTACE PERCY.
SIR JOHN WARDLAW-MILNE.
EARL WINTERTON.

THE MARQUESS OF LINLITHGOW in the Chair.

The Order of Adjournment is read.

The Proceedings of Friday last are read.

The Committee again proceed to discuss the proposals contained in the White Paper (*vide* Appendices, Vol. I Part I) and matters arising therefrom.

Ordered that the Committee be adjourned till to-morrow at half-past two o'clock.

Die Mercurii 25° Aprilis 1934

Present :

Marquess of Salisbury.
Marquess of Zetland.
Marquess of Linlithgow.
Marquess of Reading.
Earl of Derby.
Earl Peel.
Viscount Halifax.
Lord Middleton.
Lord Ker (M. Lothian).
Lord Hardinge of Penshurst.
Lord Snell.
Lord Rankeillour.
Lord Hutchison of Montrose.

Mr. Attlee.
Mr. Butler.
Major Cadogan.
Sir Austen Chamberlain.
Mr. Cocks.
Sir Reginald Craddock.
Mr. Davidson.
Mr. Foot.
Sir Samuel Hoare.
Mr. Morgan Jones.
Lord Eustace Percy.
Sir John Wardlaw Milne.
Earl Winterton.

The Marquess of Linlithgow in the Chair.

The Order of Adjournment is read.

The Proceedings of yesterday are read.

The Committee again proceed to discuss the proposals contained in the White Paper (*vide* Appendices, Vol. I Part I) and matters arising therefrom.

Ordered that the Committee be adjourned to Friday next at half-past ten o'clock.

Die Veneris 27° Aprilis 1934

Present :

Lord Archbishop of Canterbury.
Marquess of Salisbury.
Marquess of Zetland.
Marquess of Linlithgow.
Marquess of Reading.
Viscount Halifax.
Lord Ker (M. Lothian).
Lord Hardinge of Penshurst.
Lord Irwin.
Lord Snell.
Lord Rankeillour.
Lord Hutchison of Montrose.

Mr. Attlee.
Mr. Butler.
Sir Austen Chamberlain.
Sir Reginald Craddock.
Mr. Davidson.
Mr. Foot.
Mr. Morgan Jones.
Lord Eustace Percy.

The Marquess of Linlithgow in the Chair.

The Order of Adjournment is read.

The Proceedings of Wednesday last are read.

The Committee again proceed to discuss the proposals contained in the White Paper (*vide* Appendices, Vol. I, Part I) and matters arising therefrom.

Ordered that the Committee be adjourned to Tuesday the 1st of May next at half-past ten o'clock.

Die Martis 1° Maii 1934

Present :

MARQUESS OF SALISBURY.
MARQUESS OF ZETLAND.
MARQUESS OF LINLITHGOW.
LORD MIDDLETON.
LORD HARDINGE OF PENSHURST.
LORD SNELL.
LORD RANKEILLOUR.
LORD HUTCHISON OF MONTROSE.

MR. ATTLEE.
MR. BUTLER.
MAJOR CADOGAN.
MR. COCKS.
SIR REGINALD CRADDOCK.
MR. DAVIDSON.
MR. FOOT.
LORD EUSTACE PERCY.
EARL WINTERTON.

THE MARQUESS OF LINLITHGOW in the Chair.

The Order of Adjournment is read.

The Proceedings of Friday last are read.

It is moved by the Chairman, That, leave having been given by the House of Lords for the Clerk to the Joint Committee to attend to be examined as a witness before the Committee of Privileges of the House of Commons, he is authorised by the Joint Committee, when so attending, to produce all correspondence referring to the evidence given by the Manchester Chamber of Commerce.

The same is Agreed to.

The Committee again proceed to discuss the proposals contained in the White Paper (*vide* Appendices, Vol. I, Part I) and matters arising therefrom.

Ordered that the Committee be adjourned to Monday the 14th May at a quarter-past three o'clock.

Die Lunae 14° Maii 1934

Present :

MARQUESS OF SALISBURY.
MARQUESS OF LINLITHGOW
MARQUESS OF READING.
EARL OF DERBY
EARL OF LYTTON.
VISCOUNT HALIFAX.
LORD MIDDLETON.
LORD KERR (M. LOTHIAN)
LORD HARDINGE OF PENSHURST.
LORD SNELL.
LORD RANKEILLOUR.
LORD HUTCHISON OF MONTROSE.

MR. ATTLEE.
MR. BUTLER.
MAJOR CADOGAN.
SIR AUSTEN CHAMBERLAIN.
MR. COCKS.
SIR REGINALD CRADDOCK.
MR. DAVIDSON.
SIR SAMUEL HOARE.
MR. MORGAN JONES.
LORD EUSTACE PERCY.
SIR JOHN WARDLAW MILNE.
EARL WINTERTON.

THE MARQUESS OF LINLITHGOW in the Chair.

The Order of Adjournment is read.

The Proceedings of Tuesday the 1st of May are read.

The Committee again proceed to discuss the proposals contained in the White Paper (*vide* Appendices, Vol. I, Part I) and matters arising therefrom.

Ordered that the Committee be adjourned to Tuesday the 29th instant at half-past ten o'clock.

Die Martis 29° Maii 1934

Present :

MARQUESS OF SALISBURY.
MARQUESS OF ZETLAND.
MARQUESS OF LINLITHGOW.
MARQUESS OF READING.
EARL OF DERBY.
EARL OF LYTTON.
EARL PEEL.
LORD MIDDLETON.
LORD KER (M. LOTHIAN).
LORD HARDINGE OF PENSHURST.
LORD SNELL.
LORD RANKEILLOUR.
LORD HUTCHISON OF MONTROSE.
MR. ATTLEE.
MR. BUTLER.
MAJOR CADOGAN.
SIR AUSTEN CHAMBERLAIN.
MR. COCKS.
SIR REGINALD CRADDOCK.
MR. DAVIDSON.
MR. FOOT.
SIR SAMUEL HOARE.
MR. MORGAN JONES.
SIR JOSEPH NALL.
LORD EUSTACE PERCY.
SIR JOHN WARDLAW MILNE.
EARL WINTERTON.

THE MARQUESS OF LINLITHGOW in the Chair.

The Order of Adjournment is read.

The Proceedings of Monday, 14th May, are read.

The Secretary of State for India is heard to request the leave of the Committee to lay Record B.3 before them, being, Supplementary Memoranda submitted by Delegates from Burma commenting on Memoranda submitted by Mr. K. B. Harper on Trade Relations between India and Burma and on Commercial Discrimination. (*Vide* Vol. II, Records (Session 1933-34), pp. 275-291).

Ordered, that Record B.3 be *printed* and laid before both Houses of Parliament (*vide* Records, Vol. II).

The Committee again proceed to discuss the proposals contained in the White Paper (*vide* Appendices, Vol. I, Part I) and matters arising therefrom.

Ordered that the Committee be adjourned to Tuesday the 5th of June next at half-past ten o'clock.

Die Martis 5° Junii 1934

Present :

LORD ARCHBISHOP OF CANTERBURY.
MARQUESS OF SALISBURY.
MARQUESS OF ZETLAND.
MARQUESS OF LINLITHGOW.
MARQUESS OF READING.
EARL OF DERBY.
EARL OF LYTTON.
EARL PEEL.
LORD MIDDLETON.
LORD KER (M. LOTHIAN).
LORD HARDINGE OF PENSHURST.
LORD IRWIN.
LORD SNELL.
LORD RANKEILLOUR.
LORD HUTCHISON OF MONTROSE.
MR. ATTLEE.
MR. BUTLER.
MAJOR CADOGAN.
SIR AUSTEN CHAMBERLAIN.
MR. COCKS.
SIR REGINALD CRADDOCK.
MR. DAVIDSON.
MR. FOOT.
SIR SAMUEL HOARE.
MR. MORGAN JONES.
SIR JOSEPH NALL.
LORD EUSTACE PERCY.
SIR JOHN WARDLAW MILNE.
EARL WINTERTON.

THE MARQUESS OF LINLITHGOW in the Chair.

The Order of Adjournment is read.

The Proceedings of Tuesday, 29th May last, are read.

The Committee again proceed to discuss the proposals contained in the White Paper (*vide* Appendices, Vol. I, Part I) and matters arising therefrom.

Ordered that the Committee be adjourned to Monday the 18th of June next at three o'clock.

Die Lunae 18° Junii 1934

Present :

LORD ARCHBISHOP OF CANTERBURY.	MR. ATTLEE.
MARQUESS OF SALISBURY.	MR. BUTLER.
MARQUESS OF ZETLAND.	MAJOR CADOGAN.
MARQUESS OF LINLITHGOW.	SIR AUSTEN CHAMBERLAIN.
MARQUESS OF READING.	MR. COCKS.
EARL OF DERBY.	SIR REGINALD CRADDOCK.
EARL OF LYTTON.	MR. DAVIDSON.
EARL PEEL.	MR. FOOT.
VISCOUNT HALIFAX.	SIR SAMUEL HOARE.
LORD MIDDLETON.	MR. MORGAN JONES.
LORD KERR (M. LOTHIAN).	SIR JOSEPH NALL.
LORD HARDINGE OF PENSHURST.	LORD EUSTACE PERCY.
LORD SNELL.	SIR JOHN SIMON.
LORD RANKEILLOUR.	EARL WINTERTON.
LORD HUTCHISON OF MONTROSE.	

THE MARQUESS OF LINLITHGOW in the Chair.

The Order of Adjournment is read.

The Proceedings of Tuesday, the 5th of June, are read.

The following Draft Report is laid before the Committee by the Lord in the Chair.

ORDERED TO REPORT :—

That this Committee was appointed at the commencement of the present Session.

The Minutes of Evidence taken before, and Records reported from, the original Committee were referred to us.¹ For purposes of convenience this Report treats the present Committee as though it had been in existence since the appointment of the original Committee on the 11th April, 1933.

We record with profound regret the death of two of our members, Lord Burnham and Miss Pickford, and we are deeply sensible of the loss which we have sustained by being deprived of the aid of their experience and judgment in the preparation of our Report.

We were empowered to call into consultation representatives of the Indian States and of British India, and we accordingly invited the following Delegates to attend our deliberations :—

Delegates from the Indian States

Rao Bahadur Sir V. T. Krishnama Chari, C.I.E.
Nawab Sir Liaqat Hyat-Khan, O.B.E.
Nawab Sir Muhammad Akbar Hydari.
Sir Mirza Muhammad Ismail, C.I.E., O.B.E.
Sir Manubhai Nandshankar Mehta, C.S.I.
Sir Prabhashankar Dalpatram Pattani, K.C.I.E.
Mr. Y. Thombare.

Note—The Report as amended and finally agreed to by the Joint Committee will be found in Volume I, Part I.

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Delegates from Continental British India

His Highness the Right Honourable Sultan Sir Mohamad Shah Aga Khan G.C.S.I., G.C.I.E. G.C.V.O.
Sir C. P. Ramaswami Aiyar K.C.I.E.
Dr. B. R. Ambedkar
Sir Hubert Carr.
Mr. A. H. Ghuznavi.
Lieut.-Colonel Sir Henry Gidney.
Sir Hari Singh Gour.
Mr. A. Rangaswami Iyengar.
Mr. M. R. Jayakar.
Mr N. M. Joshi.
Mr. N. C. Kelkar.
Begum Shah Nawaz.
Rao Bahadur Sir A. P. Patro.
Sir Abdur Rahim.
The Right Honourable Sir Tej Bahadur Sapru, K.C.S.I.
Sir Phiroze Sethna.
Dr. Shafa'at Ahmad Khan.
Sardar Bahadur Buta Singh.
Sir Nripendra Nath Sircar.
Sir Purshotamdas Thakurdas, C.I.E. M.B.E.
Mr. Zafrullah Khan.

Delegates from the Province of Burma

Sra Shwe Ba.
Mr. C. H. Campagnac M.B.E.
Mr. N. M. Cowasji.
U Kyaw Din.
Mr K. S. Harper.
U Chit Hlaing
U Thein Maung.
Dr. Ba Maw
U Ba Pe.
Dr. Ma Saw Sa.
U Shwe Tha.
Mr. S. A. S. Tyabji

All the above were able to attend with the exception of Mr. Kelkar, who was prevented by illness from coming to England. We have learned with very great regret of the death of Mr Rangaswami Iyengar since his return to India

The Delegates took part in more than seventy of our meetings, some of which were devoted to discussion between the Delegates and ourselves, and others to the hearing of evidence.

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We desire to place on record our appreciation of the assistance which we have derived from our full and frank discussions with the Delegates, for many of whom so long an absence from their own country must have caused great personal inconvenience and sacrifice. Their advice and co-operation have been of the greatest value to us. Many of them have also furnished us with separate memoranda on various points, and we may mention in particular the Joint Memorandum signed by all the British Indian Delegates

who were still in England, which has been of great service to us as focussing British Indian views and to which we shall have occasion often to refer in the course of our Report.

We have held meetings in all and have examined over 120 witnesses, whose evidence has been printed in Volumes 2A, 2B and 2C of the Minutes of Evidence published in the autumn of 1933. We are much indebted to all the witnesses for the assistance which they gave us, but our special gratitude is due to the Secretary of State for India, who, though a member of the Committee, took the perhaps unprecedented course of tendering himself as a witness, and who replied to nearly 6,000 questions during the nineteen days over which his evidence extended. In no other way could we have been so effectively enabled to distinguish, and to examine in all their bearings, the intricate and difficult issues which we are charged to consider. We have also been fortunate in having at our disposal the practical knowledge of Indian affairs acquired by many of our own number from their personal experience in high office or in other work in India.

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CHAIRMAN'S DRAFT REPORT TO BE SUBMITTED TO THE JOINT SELECT COMMITTEE ON INDIAN CONSTITUTIONAL REFORM

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* Note.—For convenience it may be noted that this Part I was never considered, as the Committee agreed to consider an alternative Part I laid before them by the Lord in the Chair on the 24th July, 1934. Vide infra pp. 470-491.

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PART I*

INTRODUCTION

1. The conditions of the problem with the examination of which we have been entrusted are brilliantly described in the comprehensive survey which forms Volume I of the Report of the Statutory Commission. We are not aware that the accuracy of this survey has been impeached, and we are content to take it both as the starting point and the textbook of our own investigation Nor, indeed, could we do otherwise; for it would have been impossible for us in the time at our disposal to have accumulated and digested so vast a mass of fact and detail. We desire to place on record our deep obligation to the work of the Commission and our conviction that, if we had not had before us the fruits of their patient and exhaustive enquiries, we should scarcely have been able to enter upon, much less to complete within any measurable space of time, the task which Parliament has imposed upon us. Nevertheless, if the labours of the Commission have happily relieved us of the task of restating by way of introduction the conditions of the Indian problem, there are certain elements in it which must so sensibly affect the judgment which we are invited to form and the recommendations which it will be our duty to make that we may be permitted briefly to refer to them The Statute Commission' survey.

2 The sub continent of India, lying between the Himalayas and Cape Comorin, comprises an area of 1,570,000 square miles with a population now approaching 340,000,000. Of this area British India comprises about 820,000, and the Indian States 700,000, square miles, with populations of about 260,000,000 and 80,000,000 respectively. It is inhabited by many races and tribes, speaking over two hundred different languages or dialects and often as distinct from one another in origin, tradition and manner of life, as are the nations of Europe. Two-thirds of its inhabitants profess Hinduism in one form or another as their religion, over 77,000,000 are followers of Islam; and the difference between the two is not only one of religion in the stricter sense, but also of race, of law, and of culture They may be said indeed to represent two distinct and The peoples of India.

*Note—For convenience it may be noted that this Part I was never considered as the Committee agreed to consider an alternative Part I laid before them by the Lord in the Chair on the 27th July, 1934. *Vide infra*, pp. 470—491.

separate civilisations Hinduism is distinguished by the singular phenomenon of caste, which is the basis of its religious and social system and which, save in a very restricted field, remains impervious to the more liberal philosophies of the West, the religion of Islam on the other hand is based upon the conception of the equality of man. In addition to these two great communities, there is also to be found an infinite variety of other religions and sects, ranging from

[1] i e, excluding Burma see infra, para 45.

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the simple beliefs of Animism to the mystical speculations of the Buddhist The great majority of the people of India derive their living from the soil and practise for the most part a traditional and self sufficing type of agriculture. The gross wealth of the country is very considerable, but owing to the vast number of its inhabitants the average standard of living is low and can scarcely be compared even with that of the more backward countries of Europe Literacy is rare outside urban areas, and even in these the number of literates bears but a small proportion to the total population

The Indian States.

3. In its political structure India is divided between British India and the Indian States The latter are nearly 600 in number They include 109 States among them great States like Hyderabad, Mysore, Baroda Kashmir, Gwalior and Travancore, the Rulers of which are entitled to a seat in the Chamber of Princes, 128 which are represented in the Chamber by 12 of their own order elected by themselves, and 327 Estates, Jagirs, and others which are only States in the sense that their territory often consisting only of a few acres, does not form part of British India The more important States within their own territories enjoy all the principal attributes of sovereignty, but their external relations are in the hands of the Paramount Power The sovereignty of others is of a more restricted kind, and over others again the Paramount Power exercises in varying degrees an administrative control

British India.

4. British India consists of nine Governors' Provinces (excluding Burma), together with certain other areas administered under the Government of India itself The Governors' Provinces possess a considerable measure of executive and legislative independence, but over all of them the Government of India and the Central Legislature can exercise executive and legislative authority. In respect of certain matters, known as transferred subjects, the Provincial Executives are responsible to their Legislatures but the Governor General in Council is independent of the Central Legislature and responsible only to the Secretary of State and through him to Parliament An official *bloc* forms part of both the Central and Provincial Legislatures and in general acts in accordance with the wishes of the Governor General and Provincial Governors respectively British India is administered through a number of services, some of them all India services, and some provincial Of the former the most important is the Indian Civil Service, recruited by the Secretary of State

Features of present constitution.

5. Such in the barest outline is the present constitutional structure of British India, into the details of which we shall have occasion to enter with more particularly when we deal with the specific proposals of the White Paper in their order. It will be seen that its main features are a Central Executive, responsible only to the Secretary of State and through him to Parliament; Provincial

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Executives exercising powers over a wide field, responsible in certain matters but not in others to the Provincial Legislatures; and Central and Provincial Legislatures exercising the law making power, but with no control over the Executive in one case and with only a limited control in the other. Yet notwithstanding the measure of devolution on the Provincial authorities which was the outcome of the Act of 1919, the Government of India is and remains in essence a unitary and centralised Government, with the Governor-General in Council as the keystone of the whole constitutional edifice, and it is through the Governor General in Council that the Secretary of State and ultimately Parliament discharge their responsibilities for the peace, order and good government of India.

Results of British rule.

6 We are not of opinion that the British rule in India stands in need of any apologist. We claim for it neither infallibility nor perfection: but if as with all governments, it has at times fallen into error, its errors have been nobly and amply redeemed. Its first justification is that it has given to India that which throughout the centuries she has never possessed, a Government whose authority is unquestioned in any part of the sub continent; next, that it has barred the way against the foreign invader and has maintained tranquillity at home, and lastly, by the creation of a just administration and an incorruptible magistracy, that it has established the rule of law, and has secured to every subject of His Majesty in British India the right to go in peace about his daily work and to retain for his own use the fruit of his labours. Nor ought we to omit to notice how small is the British element in the services by whose agency these results have been brought about. The total European population of British India today, including some 60,000 British troops, is only 135,000, the total British element in the superior services is about [illegible],150, and of these there are approximately 800 in the Indian Civil Service and 500 in the Indian Police.

The Mogul Empire.

7 The magnitude of this achievement cannot be justly estimated without reference to the condition of things which preceded it. The arts of government and administration were not indeed unknown to the Moguls, and the strong hand of the Emperors who reigned between 1525 and 1707 maintained a State which ultimately embraced the larger part of India and did not suffer by comparison with, if it did not even surpass in splendour, the contemporary monarchies of Europe. But the strength of the Mogul Empire depended essentially upon the personal qualities of its ruling House, and when the succession of great Emperors failed, its collapse inevitably followed; nor during its most magnificent period was its authority unchallenged either within or without its borders. Its system of government resembled that of other Asiatic despotisms. The interests of the subject races were made subservient to the ambitions, and often to the caprices, of the monarch, for the politic toleration of Akbar found no imitator among his successors

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The imperial splendour became the measure of the people's poverty, and their sufferings are said by a French observer, long resident at the Court of Aurungzeb, to have been beyond the power of words to describe

The post-Mogul period.

8. There are pages in the history of India, between the collapse of the Mogul Empire and the final establishment of British supremacy, which even today cannot be read without horror. With

but brief intervals of relief, vast tracts were given over to the internecine struggles of the princes, the guerilla warfare of petty chiefs, and the exactions of Indian and European adventurers and to townsmen and peasants alike, the helpless victims of malice domestic, foreign levy, and the whole apparatus of anarchy, it might have seemed that the sum of human misery was complete. It is in the improvement which has taken place in Indian agriculture since the establishment of peace and security that the Royal Commission in 1928 found a measure of the extent to which husbandry had been injured and its progress delayed by the long period of disorder and unrest that preceded the British occupation.

Restoration of peace and order.

9. Such were the conditions out of which British rule created a new and stable polity, not without the support and co-operation of Indians themselves. Peace and order were re-established, the Relations of the Indian States with one another and with the Crown were finally determined, and the rule of law made effective throughout the whole of British India. On this solid foundation the majestic structure of the Government of India rests, and it can be claimed with certainty that in the period which has elapsed since 1858, when the Crown assumed supremacy over all the territories of the East India Company, the intellectual and material progress of India has been greater than it was ever within her power to achieve during any other period of her long and chequered history.

Unity created by British rule.

10. The success of British rule has produced many, and sometimes unforeseen, consequences. A strong central Government, without a rival to challenge its authority, has transformed British India into a single unitary State. A sense of political unity has been thereby created and there have emerged the beginnings of a sense of nationality, transcending, as it would seem, the profound divisions of race, language, and religion, and based upon the conception of India as the common heritage of all her peoples. India is far from being yet a homogeneous nation: she is perhaps (and the future alone can tell) a nation in the making; but we do not think it open to question that the growth of any national spirit has only been rendered possible by the existence of a powerful and disinterested government, willing to play the part of an impartial arbiter, and able by the exercise of its authority to keep under control the centrifugal and disruptive forces produced by acute religious and racial conflict. It is a singular reflection that in the English tongue Indian nationalists have found

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the most convenient vehicle for the public discussion and interchange of their political ideas; but none can fail to appreciate its significance.

Growth of national idea.

11. It would be as unreasonable to feel surprise at the growth of this spirit as it would be idle to deny its existence. It was begotten of the political union between the two countries and it has been sustained and nourished by an ardent study of British constitutional theory. Indian political thought, postulating too hastily the universal validity of the latter, a premise to which few Englishmen would give an unqualified assent, has not failed to point out a supposed inconsistency between theory and practice in the case of British rule in India; but the reality of the Indian argument rests in our opinion on other and broader grounds.

Basis of strength of Government of India.

12. The strength of the Government of India for many generations may, as it seems to us, be referred to two causes; the first, its accountability to Parliament, which has given it a quality of stability

and permanence impossible of attainment otherwise by a system of personal rule; the second, its general acceptance by the mass of the Indian people. These were able indeed, and with good cause, to recognise the distinction between good governors and bad; but, so long as they were left alone, knew nothing of, or at least were indifferent to, any distinction between the forms of government itself. A people, whose ambitions are wholly negative and do not extend beyond a desire for peace and tranquillity, will be content to accept any form of government which is strong and reasonably impartial, and that Government must be deemed the most successful which is able to satisfy the aspirations of those whom it governs at the particular stage of development which they have attained. It is perhaps the most signal tribute to British rule in India that the performance of all the fundamental purposes of government, that is to say, the maintenance of law and order and an upright administration, is now accepted as a matter of course, so that men are free to turn their thoughts to other things. Conditions have thus been created favourable in the case of an acute and ingenious race to speculation upon the forms of government, and, as a natural consequence, to the rise of that which is sometimes called a politically minded class. Men become no longer content to be well governed, but desire a voice in their own government. The Montagu Chelmsford Reforms and the Government of India Act, 1919, were designed to meet the demand then made. The claim is now to have a voice in the selection of those who govern.

Want of harmony between Government and people.

13. The benevolent autocrat no less than the tyrant holds by a precarious tenure, if in the last analysis he has not the support of a body of public opinion, whether tacit or expressed; like Antaeus in the ancient myth, he must draw strength from contact with the soil. The moralist may deplore, but the least cynical must admit, that the sentiment of gratitude plays but a small part in the formation of that

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opinion, and we should doubtless listen with incredulity to a historian who should ascribe it to the English people after the Conquest; yet the Normans made England a nation and laid the foundations of a system of law and administration which endures to this day. There is ample evidence that enlightened Indian opinion has a very just appreciation of the benefits derived from the British connection, but the attachment of a people to its government is not always determined by an objective calculation of material interests. The subtle ferments of education, the impact of the War, and the beginnings of that sense of nationality to which we have already alluded, go far to explain the want of harmony which exists between the present system of government and public opinion in India, so far as the latter is vocal. It may be justly observed that the qualification is a vital one and that there are no means of gauging the opinion of the vast and inarticulate mass of the cultivators who make up nine tenths of the population and to whom an equitable land revenue settlement and the timely advent of the monsoon are likely for many years to be of greater importance than the most radical political changes. But though Parliament is a trustee for the masses of India and cannot disclaim the responsibilities which it has assumed on their behalf, it would in our opinion be unjust to judge the political consciousness of her people by the standard of the least instructed class.

Public opinion in India.

14. No appreciation of the Indian problem would be complete if it affected to disregard the want of harmony of which we have spoken. Where, as in India, political education has not extended beyond a

class small in comparison with the total population, it may be conceded that alleged manifestations of public opinion are often of doubtful value, nor indeed are there wanting those who would refuse to attribute to them value of any kind. But we are not prepared to admit that over a period of four years the members of three Round Table Conferences and the members of this Committee have listened to the arguments and have shared the debates of men who represented in India no one but themselves. We are satisfied that a public opinion exists in India which it would be a profound error for Parliament to ignore; that the estrangement between that opinion and the present system of government is prejudicial to the interests of both countries, and that a readjustment of relations between the two partners is required.

The moment propitious for a readjustment of relations.

15. The moment is propitious for a readjustment of this kind. For the first time in the history of India, representatives of her Princes and peoples have sat for many months in counsel with representatives of His Majesty's Government and of the great political parties of the United Kingdom; and for the first time in the history of Parliament Indian delegates have taken part in the proceedings of a Joint Select Committee and have illuminated our discussions, even if circumstances forbid them to share our responsibilities. We do not suggest; nor would any Indian claim,

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that the conclusions which emerged from the minute and laborious diligence of the three Round Table Conferences are binding upon the United Kingdom or upon India, but they are not on that account to be neglected or contemned. They are the fruits of an effort which will be deemed as laudable by a future, as it might have seemed incredible to a past, generation, to ascertain whether any substantial measure of agreement was possible upon the principles which should, or might, inform a new Constitution for India. It can scarcely have been supposed by the promoters of those Conferences that the free and unfettered discussion of questions so formidable and complex would succeed in producing a complete and harmonious reconciliation of contradictory or at least divergent opinions: but the common measure of agreement achieved must, we apprehend, have exceeded their most hopeful expectations.

Emergence of body of central opinion.

16. We do not wish to imply that any scheme for the future government of India is at present in existence which can be said to have been agreed even unofficially between representatives of the two countries. We realize too that there is a party in India with whom the prospects of agreement of any kind may be remote, but from the discussions and personal contacts of the last four years there has emerged a body of central opinion (for so we may describe it) in the creation of which a juster appreciation by each side of the difficulties and even more of the motives of the other has been perhaps not the least potent influence. This is a new and hopeful phenomenon. It is possible now to distinguish much common ground, where previously the dividing gulf might have seemed unbridgeable; and it will not be denied that, if the movement of British opinion has contributed to this result, so also has that of India. On the common ground thus marked out we believe that the foundations could be laid of a firm and enduring structure.

The Preamble to the Act of 1919.

17. If then we are satisfied, for the reasons which we have given, both that a readjustment is necessary and that the moment for effecting it is propitious it becomes our duty to consider the form which such a readjustment should take. For this purpose it is well

to recall that the ultimate aims of British rule in India have been often stated and are on record. They are set out with precision in the Preamble to the Government of India Act, 1919, which runs as follows:—

"Whereas it is the declared policy of Parliament to provide for the increasing association of Indians in every branch of Indian administration, and for the gradual development of self-governing institutions with a view to the progressive realization of responsible government in British India as an integral part of the Empire:

And whereas progress in giving effect to this policy can only be achieved by successive stages, and it is expedient that substantial steps in this direction should now be taken:

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And whereas the time and manner of each advance can be determined only by Parliament, upon whom responsibility lies for the welfare and advancement of the Indian peoples:

And whereas the action of Parliament in such matters must be guided by the co-operation received from those on whom new opportunities of service will be conferred, and by the extent to which it is found that confidence can be reposed in their sense of responsibility:

And whereas concurrently with the gradual development of self-governing institutions in the Provinces of India it is expedient to give to those Provinces in provincial matters the largest measure of independence of the Government of India, which is compatible with the due discharge by the latter of its own responsibilities."

Subsequent declarations have not in our opinion added anything to the substance of this preamble, which is conceived in such wide and general terms that we should hesitate to put any limit upon its implications, save those which necessarily arise from the use of such words as "gradual" and "progressive." We are content, therefore, to take the Preamble as a clear statement of the policy and aims of Parliament in relation to the government of India.

The Indian demand for responsible government accepted.

18. The readjustment of the relations between the two partners ought, in the Indian view, to take the form of the grant forthwith, subject to certain conditions, of responsible government both in the Provinces and at the Centre. There is no date or time-limit mentioned in the Preamble, and on this aspect of the matter, Parliament is bound by no pledges, and is free to make its own decision. It can grant the demand or it can reject it as premature and unwise; and the grave and difficult task is laid upon us of recommending to Parliament what its choice should be. After mature and anxious deliberation and with a full sense of our responsibilities, we have come without hesitation to the conclusion that it would be wrong and prejudicial to the interests of both countries to reject the Indian claim; and we shall endeavour in the paragraphs which follow to explain and justify that conclusion. The quality of the problem, as we shall indicate, differs in the Provinces and in the Centre, but there are nevertheless certain general considerations which are applicable to both.

Meaning of responsible government.

19. The demand for responsible government in the Provinces was admitted by the Statutory Commission, and it might be sufficient for us to adopt the arguments which led them to that decision and from which we see no reason to dissent; but we think it right to add some observations of our own. We desire also to make it clear that by

responsible government we mean a form of government in which the executive is in some sense accountable to the Legislature, and not one which implies no more than the substitution of Indian Ministers for official Councillors. It has seemed to us that this distinction was not

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always kept in mind by some of the Indian witnesses whom we heard, and, though we can understand prominence being given to the conception of government of Indians by Indians, it is necessary to emphasise that self government and responsible government are by no means the same thing. We use advisedly the expression "in some sense accountable," lest we should be thought to advocate the adoption in India without qualification of the parliamentary system which obtains in the United Kingdom, a matter to which we propose to make reference subsequently in this Report.

Need for encouraging sense of responsibility.

20. No Indian Federation is likely in our opinion to become a successful and thriving State unless (so far as British India is concerned) it is based upon autonomous Provincial units with a vigorous and independent political life of their own. The present dyarchic system in the Provinces, as the Statutory Commission point out, which was designed to develop a sense of responsibility, has sometimes tended to encourage a wholly different attitude. A sense of responsibility is an attribute of character, not a garment to be put on or discarded at will. It may be strengthened by inherited tradition, but it must be acquired in the hard school of experience; and the Statutory Commission rightly observe that it can only be taught by making men responsible politically for the effects of their own actions. It is the misfortune of India that throughout all the centuries which preceded the establishment of the British Raj this doctrine has been unknown or obnoxious to her rulers. Of the mischiefs which have followed and of the effect upon the national character, it is unnecessary to speak; but it is not for us to complain if Indians now seek to apply a remedy which they have learned from an attentive study of our own history, and which indeed we have held out to them as the ultimate view of our policy in India. We do not think that the opportunity ought any longer to be denied them.

Responsible government and social reform.

21. Secondly, we are convinced that progress in one direction of supreme importance to India can only be achieved under a system of responsible government. We may indeed legitimately claim that for the greater part of her material and intellectual progress she is mainly indebted to British rule, which has also ensured the order and tranquillity without which no progress of any kind is possible. But from one aspect of Indian life Government has deliberately stood aside; it has followed a policy of neutrality and non-interference in all matters which touch the religions of India. It is not difficult to justify that policy, whether on grounds of expediency or on other grounds; but so closely are the habits and customs of the people bound up with their religious beliefs that the effect has been to put grave obstacles in the way of social legislation by the Government of India in a sphere of immense and growing importance. In no other sphere, as all thoughtful Indians recognise, is the need for social reform more urgent and vital; yet Government is debarred,

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by the considerations we have stated from effective interference in such matters as child marriage or the appalling problem of the untouchables. There are fetters which only Indian hands can strike

off; and we can do no more than give Indian reformers the opportunity themselves of attempting the task. We are under no illusions as to the difficulties and obstacles which they are likely to encounter, but we are clear for the reasons which we have given that under responsible government alone can the attempt be made with any prospect of success.

Unwisdom of disappointing Indian expectations.

22. Lastly, we cannot ignore the swift march of events during the last few years. We have already spoken of the manner in which representatives of India have been willing to co-operate with men of this country for the purpose of reaching some common measure of agreement and of the success which, as it seems to us, has attended their efforts. It would be a matter of profound regret to us if the fruits of this co-operation were abandoned or at least treated as of little account. The singular change which has come over the Indian political scene is as encouraging as it is impressive; and the evidence satisfies us that it is due in large part to the belief of Indians that the joint labours of the last four years will not be thrown away. We cannot take the responsibility of recommending to Parliament a course of action which would not only disappoint a belief so strongly and universally held, but which we are convinced would also produce most unhappy consequences. It will be said that this is an argument of mere expediency, but we do not so regard it. We see the opportunity of terminating an estrangement between the two countries which, if it is allowed to continue, can bring nothing but harm to both of them. The material interests at stake are not inconsiderable, and Parliament will rightly desire to take them into account; but the other factors to which we have drawn attention seem to us not less vital because imponderable and we believe that an even greater importance is to be attributed to them.

Special problem of responsibility at the Centre.

23. Much of what we have said applies equally to the Centre and to the Provinces, but the problem of responsibility at the Centre raises grave issues of its own. We do not forget that the Statutory Commission were unable to convince themselves that this further step was justified at the time when they made their Report, and we cannot lightly put aside the reasons which led them to that conclusion It is admitted by responsible Indian leaders that whatever form the Central Government may take, the defence and external relations of India must for the time being remain the exclusive responsibility of the Governor-General. Hence any measure of responsible government at the Centre must involve a system of dyarchy, but the Statutory Commission held strongly the view that a unitary government at the Centre was essential and should be preserved at all costs. "It must be a government", they wrote, "able to bear the vast responsibilities which are cast upon it as the

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central executive organ of a sub-continent presenting complicated and diverse features which it has been our business to describe"; and they expressed the opinion that a plan based on dyarchy was unworkable and no real advance in the direction of developing central responsibility at all. To this we might add that what we have ourselves said above on the subject of dyarchy in the Provinces appears at first sight to be wholly inconsistent with any contrary view

The change effected by the declaration of the Princes.

24. We recognise the force and weight of all these arguments but we have to deal with a state of things which did not, and indeed could not, enter into the consideration of the Statutory Commission when they reached their decision on this matter. Their examination of the problem was prosecuted at a time antecedent to the declaration

by the Princes of their willingness to enter an All-India Federation, and, though they looked forward to such a Federation in the future, and indeed so framed their recommendations as to prepare the way for it, they had no choice but to deal with things as they then were and not as they might afterwards become. We, on the other hand, have to take into account as a new factor, the declaration of the Princes that they are willing now to enter into an All India Federation, but subject always to this condition, that the Federal Government is a responsible and not an irresponsible government. The importance of this declaration cannot be over-estimated, and if the choice is to be made between a responsible government at the Centre with the accession of the Princes and a continuance of the present system (even with some modification) without them, we cannot doubt what the choice would be. The Indian States, both geographically and economically, are an integral part of India, and as the Statutory Commission observe, there are few subjects which should form the field of activity of a central government in India which do not interest also the States. Their accession to an All-India Federation will in our opinion be found to be no less to their own advantage than it will undoubtedly be to the advantage of India as a whole; but apart from this they have a special contribution of their own to make. They will strengthen the association between India and the Crown: and we are also persuaded that they will introduce into the new Constitution a cautious and conservative element, with a practical experience in the problems of government, which will make for sobriety and stability in Indian politics of the future.

The arguments of the Statutor Commission.

25. Our recommendation then is conditional upon the accession of the Princes, and if we are asked what the position would be, if the Princes should resile from their declaration, we can only reply that in that event, which happily there is no reason to contemplate, we are unaware of any pledges which bind either Parliament or His Majesty's Government, and that the matter will be at large. But the problem of dyarchy at the Centre remains, and the objections to it so strongly urged by the Statutory Commission have still to be considered. In our opinion a system of dyarchy

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at the Centre such as we propose is not open, at least in an equal degree, to the criticisms levelled against it in the Provinces. There is only an imperfect analogy between the reservation of defence or external relations and that of the present reserved subjects in the Provincial sphere. In the Provinces the administration of the reserved subjects touches so closely that of the subjects transferred to Ministers that an administrative decision in one field may profoundly affect decisions in another, and a division of responsibility cannot fail to have perplexing consequences. Contact between the subjects of defence or external relations and the range of subjects which, if our recommendations are accepted, would fall within the sphere of Ministers at the Centre is, if not remote, at least not a matter of daily occurrence. It is no doubt true that the Army at the Centre and police in the Provinces are both concerned with the preservation of order, but their functions in this respect differ so widely that administratively they present far more points of contrast than of likeness. We do not by any means overlook the question of finance or the reactions of the Army budget upon the finance of the central administration; but here again no question arises of a constant impingement of one administrative sphere upon the other Lastly, it is reasonable to suppose that the interest of the Princes in

all matters relating to the defence of India will make them unwilling to support any action tending to blur the responsibility of the Governor-General in this field or to become parties to ill-conceived criticism of his administration of the reserved departments. We are led to the conclusion, therefore, that the obejctions of the Statutory Commission are not in themselves an insuperable bar to the grant of responsible government even at the Centre, and we are not satisfied that the sacrifice of unity will render impossible the establishment of an efficient central executive.

Present relations between Government and Legislature.

26 As our enquiry has proceeded, we have been increasingly impressed not by the strength of the Central Government as at present constituted, but by its weakness. It is confronted by a Legislature whose members are unrestrained by the knowledge that they themselves may be required to provide an alternative government, whose opinions are uninformed by the experience of power, and who are prone to regard support of government policy as a betrayal of the national cause. It is abundantly clear from the political history of the last twelve years that criticism by the Assembly has constantly influenced the policy of government: if the tendency of that criticism has been mainly destructive, this has been mainly due to the circumstances which we have just described. As a result, the prestige of the Government has been lowered, and disharmony between Government and Legislature has come to be regarded as an inevitable feature of their relationship. If this has been the case under existing conditions, we cannot doubt that the position would deteriorate still further if an irresponsible Centre were to be superimposed upon a number of autonomous Provinces.

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Difficulty of reconciling an irresponsible Centre with provincial autonomy.

27 It has been made clear to us that, with few exceptions, Indians of every shade of political opinion have come, rightly or wrongly, to regard a measure of responsible government at the Centre as the hallmark of nationhood, and as a thing vital to the status and self respect of India. If these hopes and desires were now to be thwarted by the limitation to the provincial field of the principle of responsibility, we think the consequences would be disastrous alike in the Provinces and at the Centre. We apprehend that the centrifugal forces latent in all federal constitutions would be dangerously increased, and that if an irresponsible Centre were to come into conflict with autonomous Provinces upon an issue where the popular cause was championed by the Provinces, there might emerge a state of affairs which would threaten nothing less than the integrity of the Federation. Nor could we hold it reasonable to contemplate the successful coercion, by an irresponsible Central Executive, of autonomous Provinces whose governments enjoyed the full support of public opinion and of the Legislatures, both Central and Provincial.

Requirements of a successful Constitution.

28. Two qualities must attach to a successful Constitution: the first, that it should be workable; the second, that those to whom it is offered should be prepared to make it work. For the reasons we have given, we think that any Constitution will be found to be lacking in both these requirements which proposes, as a permanent arrangement, the co-existence of an irresponsible Central Executive with a number of autonomous Provinces in which responsible government has been established. In our view the grant of some measure of responsibility at the Centre is an act not of rashness but rather of wise and prudent statesmanship, and we are unable to resist the conclusion that those who have been moved to take a contrary view have failed in a just appreciation of the realities and values of the situation.

British conception of parliamentary government.

29. We have said above that by responsible government we mean a form of government in which the executive is in some sense accountable to the Legislature, and we are here faced by a grave and difficult problem. It is not unnatural that, in the words of the Statutory Commission, most of the constitutional schemes propounded by Indians should closely follow the British model, nor can Parliament be insensible to the compliment implied by such a preference at a time when the principles of parliamentary government have been successfully challenged in many parts of Europe and are regarded with suspicion or doubt in others But the successful operation of parliamentary government postulates beyond question the existence of certain essential conditions. It has been observed by a statesman of our own time, whose liberal sympathies and whose knowledge of the working of democratic institutions will be questioned by none, that "the English constitution, which we admire as a masterpiece of delicate and complicated mechanism would anywhere but in England be full of difficulties and dangers . . . it works by a body of understanding which no writer can formulate and of habits which centuries have been needed to instil" We think that

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Lord Bryce would not have denied that the understanding and habits of which he speaks are in the main the creation of, as they have in their turn helped to promote, the growth of mutual confidence between the great parties in the State and of the fundamental belief, transcending the political differences of the hour, which each has come to repose in the good faith and motives of the other. Many causes have contributed to this result, which has not been achieved without stress and effort, and even civil conflict; and we shall be chary of giving credit to race or temperament for national characteristics which perhaps with equal justice may be attributed to the happy accident that we inhabit an island, and that for nearly a thousand years our political evolution has been undisturbed by the fact, and scarcely even by the menace, of foreign invasion.

Essentials of parliamentary government

30. Parliamentary government, as it is understood in the United Kingdom, is based essentially on the principle of majority rule, and majority rule is not a working principle of government, unless the minority for the time being are willing to accept, or at least to acquiesce in, the decisions of the majority. The existence of organised political parties, each able and willing to take over the responsibilities of government when the time arrives, is perhaps so necessary for the efficient working of the system that it may also be regarded as an essential element in it. It is nevertheless a singular paradox that in England the party system is a successful instrument of government mainly because there is always a large body of opinion which owes no permanent allegiance to either party, but gives its support in a greater or less degree to each party in turn: and it is this body of opinion which, reacting instinctively against extravagant movements on one side or the other, preserves an equipoise and tends always to bring the vessel back to an even keel. In the absence of a central balancing force of this kind, there must always be the danger of a permanent majority and a permanent minority; and since no room is then left for compromise or adjustment, violent stresses are set up which, unless corrected or restrained, are sufficient to disrupt and even to destroy the State.

Difficulties of the problem in India.

31. There are in India no parties as we understand them, and no mobile body of political opinion such as we have described In their place we are confronted with the secular antagonism of Hindu and Muhammadan, representatives not only of two religions but of

two civilisations; with numerous self-contained and exclusive minorities, all a prey to anxiety for their future and profoundly suspicious of the majority and of one another; and with the rigid and immutable divisions of caste, itself a denial and repudiation of every democratic principle. The only forces making for homogeneity or solidarity which we are able to discern are the beginnings of the idea of Indian nationality which we have already mentioned, and possibly also the sense of provincial citizenship, which in some Provinces, and perhaps in all is of real and growing significance.

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But none can predict whether either of those forces will in the end prove strong enough to absorb and obliterate the religious and racial cleavage, which indeed tends to become more and more acute with each successive transference of political power into Indian hands. Communal representation must be accepted as inevitable at the present time; but it is a strange commentary on some of the democratic professions to which we have listened.

A middle course possible.

32. We lay stress on these matters because in truth they are of the essence of the problem, and we should be doing no good service to India by glozing them over or concealing them. It is wiser to face the facts. Things are what they are and not other things; and it cannot in the circumstances be a matter for surprise that many are to be found who, with every sympathy for Indian aspirations, declare that responsible government is on practical grounds an impossibility in India. We have come nevertheless to a different conclusion. We recognise the difficulties and we desire that they should be recognised by Indians themselves. We recognise also that if free play were given to the powerful forces which would be set in motion by an unqualified system of parliamentary government, the consequences might be disastrous to India and perhaps irreparable. But there is a middle course, and we are thus led to a consideration of what have come to be known as "safeguards."

Safeguards necessary in the interests of India herself.

33. We confess that we do not greatly care for the expression, since it has been constantly misinterpreted as implying an unreasonable insistence upon the need for protecting British, at the expense of Indian, interests, and upon a selfish reservation of powers wholly inconsistent with responsible government. Nothing could be further from the truth; not only are safeguards such as we contemplate not inconsistent with some form of responsible government, but in the present circumstances of India it is no paradox to say that they are the necessary complement to any form of it, without which indeed it could have little or no hope of success. It will be found that the grant of responsible government to almost all British communities has been accompanied by safeguards of some kind, varying according to the circumstances of the community: and it is in exact proportion as Indians show themselves to be not only capable of taking and exercising responsibility but able to resolve the difficulties of which we have spoken that both the need for safeguards and their use will disappear. Those difficulties have neither been created, nor can they be resolved, by Parliament; they are inherent in the conditions of India; and if their existence necessarily qualifies the grant of responsible government, it is not on Parliament that criticism should fasten. We propose to examine later in this Report the nature of the safeguards suggested by His Majesty's Government, and it is sufficient here to say that we could not recommend Parliament to approve an experiment, which we recognize to be not without risk and even danger, unless provision were made, so far as can reasonably be done for securing the conditions which in our opinion will alone make

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it possible for the experiment to succeed at all. We therefore think it right to formulate what seem to us to be the essential elements in any new constitutional settlement.

Need for flexibility;

34. One essential element is flexibility, so that opportunity may be afforded for the natural processes of evolution with a minimum of alteration in the constitutional framework itself. The deplorable and paralysing effect of prescribing a fixed period for constitutional revision requires no comment in the light of events since 1919; but we are also impressed with the advantage of giving full scope for the development in India of that indefinable body of understanding, of political instinct, and of tradition, which Lord Bryce, in the passage which we have quoted, postulates as essential to the working of our own constitution. The success of a constitution depends indeed far more upon the manner and spirit in which it is worked than upon its formal provisions. It has been observed by an English judge that insistence by everyone upon their strict legal rights would make the world an intolerable place, and the observation is peculiarly appropriate in the constitutional sphere, where theory may prove sterile and even dangerous unless expanded or adapted by an accepted body of usage and practice. The new Indian Constitution must contain in itself the seeds of growth. It is impossible to foresee, so strange and perplexing are the conditions of the problem, the lines which constitutional progress will eventually follow: and it is, therefore, the more desirable that those upon whom responsibility will rest should have all reasonable scope for working out their own salvation by the method of trial and error.

or a strong Executive;

35. Next, we desire to emphasize the necessity for securing a strong Executive both in the Provinces and at the Centre. We have little to add to what the Statutory Commission have written on this point, and in our judgment they do not exaggerate when they say that nowhere in the world is there such frequent need for courageous and prompt action as in India and that nowhere is the penalty for hesitation and weakness greater. We do not doubt that Indian Ministers, like others before them, will have ample opportunities for realising the truth of this and of learning the lesson which it teaches. But, since we see no prospect for some time to come of Ministries united by a common political faith and supported by an organised and disciplined party, we do not think that the risk of divided counsels and therefore of weakness in action is one which can be ignored. There must, therefore, be (to quote again the Statutory Commission) a power which can step in and save the situation before it is too late, there should be the fullest scope for self government but, if there is a breakdown, then an alternative authority must operate unhampered. Such intervention ought nevertheless to take place only as a last resort, and must not be regarded as part of the normal machinery of government; otherwise we see a risk that it may be invoked for the purpose of disclaiming responsibility in cases where it is above all things necessary that those on whom the primary

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responsibility is imposed should be ready and willing to bear it. Nor ought the Executive to be entirely at the mercy of the Legislature. We have no wish to under-rate the legislative function; but in India the executive function is in our judgment of over riding importance. In the absence of disciplined political parties, the sense of responsibility may well be of slower growth in the Legislatures and the

threat of a dissolution can scarcely be the same potent instrument in a country where, by the operation of a system of communal representation, a newly elected Legislature will often have the same complexion as the old. We touch here the core of the problem of responsible government in the new Indian Constitution, and we shall examine it in greater detail later in our Report.

36. No less important than a strong Executive is the maintenance of a pure and efficient administration, the backbone of all good government. The establishment of a public service, at once disinterested and incorruptible, is not the least of the benefits which British rule has given to India, and it is perhaps the most prized. We do not doubt that here and there in the lower official ranks the belief may still persist, an unhappy legacy of the misgovernment of the past, that office is a source of profit and corruption a venial thing; and it would be surprising if it were otherwise, for the habits of centuries are not so easily eradicated. We have ample proof, however, that Indian officials who occupy responsible positions hold as dear as any of their British colleagues the standards and traditions of the services to which they belong, and we see no reason why under a new order the standards should become lower, or the traditions lost. But the efficiency of a service is no less vital than its honesty. In no country perhaps does the whole fabric of government depend to a greater degree than in India upon its administration; and it is indeed literally true, as the Statutory Commission observe, that the life of millions of the population depends on the existence of a thoroughly efficient system. But no service can be efficient if it has cause for anxiety or discontent. It is essential therefore, in our judgment, that those whose duty it is to work this system should be freed from anxiety as to their status and prospects under the new Constitution, and that new entrants should not be discouraged by any apprehension of inequitable treatment. We have every hope that such anxieties or apprehensions will prove unfounded, but they may be none the less real on that account; and, so long as they exist, it is necessary that all reasonable measures should be taken to quiet them. for efficiency in administration.

37. Lastly, we record our conviction that the existence of an authority in India, armed with adequate powers, able to hold the scales evenly between conflicting interests and to protect those who have neither the influence nor the ability to protect themselves, will be as necessary in the future as experience has proved it to be in the past. He would be a bold man who would prophesy for an impartial and disinterested authority.

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the direction or effect of the new political forces in India, whether they will heal or accentuate existing divisions, whether they will promote toleration or encourage intolerance. Other, and perhaps most, peoples have achieved unity only after prolonged and often sanguinary internal conflict. We have rightly insisted in India upon a different solution; but if we have for that reason changed or deflected the natural processes of historical evolution we have also assumed the responsibility of ensuring that the experiment is conducted with justice towards all and with malice towards none.

38. Such in our opinion are the essential elements in a new Constitution for India, which any safeguards proposed, by whatever name they are called, should be designed to secure; and when we come to examine those which have been suggested by His Majesty's Government, their efficacy for this purpose will be the test by which we shall judge them. Seen in their proper perspective, they will Disuse of safeguards the measure of their success.

promote and not hinder a normal constitutional development, but we are none the less persuaded that no constitutional development is possible without them. They are at once the background of the experiment and the condition of its initiation; and the extent to which they are found unnecessary will be the true measure of its success.

Consequences of the alternative solution.

39. We desire to touch upon one or two broader issues before concluding this part of our Report. We are not so vain as to suppose that our recommendations will secure unanimous approval; but we would invite those who differ from us to consider very earnestly the possible alternatives. No one has suggested that any retrograde step should be taken, very few that the existing state of things should be maintained unaltered; and the necessity for constitutional advance, at least within the limits of the Statutory Commission's report, may therefore be regarded as common ground. The question of responsibility at the Centre thus becomes the essence of the problem. But if that question should be determined in the negative, Parliament must be prepared to face the inevitable consequences, two of which in our opinion transcend all the others in importance; first, the Princes declaration will no longer hold good, and the prospect of an All-India Federation disappears, perhaps for ever, but certainly for many years to come; and, secondly, the co-operative efforts of the last few years and that body of central opinion which we have described and which has seemed to us so vital and hopeful an element in the future relations of the United Kingdom with India are irretrievably destroyed. These are grave issues. We should hesitate to forecast all the effects of the Princes withdrawal or the dissipation of Indian confidence, but of this we are very certain, that the difficulties of the Government of India would be increased almost to breaking point and that it would have to discharge its heavy responsibilities without the support of any section of Indian public opinion. We do not say that the

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task would be impossible, but we confess that we should shrink from the deliberate thrusting upon any government of so grievous a burden.

Lord Macaulay's questions.

40. A policy with consequences such as these is one which we could never recommend to Parliament, nor can we believe that Parliament, weighing its own responsibilities to India, would willingly accept it. We cannot indeed complain if those whom we fail to convince lay stress upon the possible consequences of another policy. It has been, and will be, urged that no Dominion has ever been faced within its border at one and the same time with all the problems with which India has to deal; with the ever present risk of hostilities on her frontier; with the cleavage between communal interests; with innumerable differences of race and speech; with a financial system largely dependent for its credit on centres outside India; and with a vast population in every stage of civilisation. All these things are true, and yet even the sum of them does not seem to us to conclude the argument. An answer has still to be found to the questions asked a century ago by a great servant of India, in a speech of which it was said that to have heard it might console the younger members of the House for never having heard Edmund Burke: "Do we think that we can give the people of India knowledge without awakening ambition? Or do we mean to awaken ambition and provide it with no legitimate vent?" The answer has now to be given; and we hold strongly that it is more consonant

with the dignity of Parliament and with the traditions of the British people, if, when the time has come for Parliament to share its power with those whom it has sought to train in the arts of government, it should do so not ungraciously nor in any grudging spirit.

The United Kingdom and India.

41. There are moments in the affairs of nations when a way is opened for the removal of long-standing differences and misunderstandings and for the establishment between people and people of new relations more in harmony with the circumstances of the time than those which they replace. Adjustments of this order, when they involve a transference of political power, must inevitably provide a sharp test of national character; and the instinct for the time and manner of the change is the sure mark of political sagacity and experience. If there are those to whom the majestic spectacle of an Indian Empire make so powerful an appeal that every concession appears almost as the betrayal of a trust, we would ask them to look at the other side of the picture, different indeed in content, but not less charged with realities. India also has a right to be heard before judgment is pronounced; and her plea to be allowed the opportunity of applying principles and doctrines which we ourselves have taught cannot be met by a simple traverse or by a denial of her interest in the cause.

India and the Crown.

42. It has seemed to some that to permit India to control her own destiny is to sever the tie which unites her to the Crown and to the United Kingdom. Never could we contemplate the rupture of

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that beneficent and honourable association; but we believe that a union of partners may prove an even more enduring bond. We do not deny that the creation of an Indian Empire has profoundly affected the position of the United Kingdom and has magnified its influence in the affairs of the world; but we do not think that the selfish or vainglorious element predominates in the pride which this country takes in the work accomplished. The best of those who were and are responsible for it have ever regarded themselves as the servants of India and not merely as the agents of a foreign power; nor do we forget that it could not have been carried through without the co-operation of Indian hands. It has not needed our enquiry to remind us how great a place India fills in our own history. There is no part of His Majesty's dominions with the same power to recall memories or to stir emotions, and none with so great a succession of warriors and administrators, by the story of whose achievements our hearts are still moved, as Sir Philip Sidney by the song of Percy and Douglas, more than with a trumpet. But the whole earth is the sepulchre of famous men, and those of whom we speak are now become a part no less of India than of English history. Their arduous and patient labours founded a new and mighty State; and it is upon the foundations which they have laid that, as we hope, an Indian Federation will be built, in which under the Crown the people of India will find political contentment as well as scope for the free and orderly growth of national life.

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PART II

THE WHITE PAPER

The Committee's terms of reference.

43. Our terms of reference direct us to consider the future government of India and in particular to examine and report upon the proposals in Command Paper 4268, commonly known as the White Paper The latter, in fact, embodies a complete scheme for Indian constitutional reform, and we have found it convenient to make it the basis of our deliberations, though we have not in any way restricted them to the proposals which it contains In these circumstances it has appeared to us equally convenient to take the White Paper, which in any case we have been directed to examine and report upon, as the general basis of this Report, and to set out our recommendations as to the future government of India in the form of a commentary upon the White Paper scheme

Arrangement of White Paper.

44. The proposals in the White Paper fall under three main heads, which have been commonly referred to as Provincial Autonomy, Federation and Responsibility at the Centre The terminology is not very happy, but is well enough for the present purpose, and we shall not be misunderstood if we adopt it as a provisional description It is our intention to examine the principles which underlie these proposals and to state certain general conclusions at which we have arrived, and thereafter to examine separately the proposals in relation to the following complementary or subsidiary matters:—Distribution of Legislative Powers, Finance, the Services, the Judiciary, Commercial Discrimination, Constituent Powers, the Secretary of State and the Council of India, the Reserve Bank, the Future Administration of Indian Railways, Audit and Auditor General, Advocates General, and Transitory Provisions This appears to us the more convenient course to adopt, in order that the essential elements of the scheme put forward by His Majesty's Government may be seen in their proper perspective, unobscured by the mass of detail which the White Paper necessarily contains

Burma.

45 The proposals in the White Paper do not deal specifically with the question of Burma in relation to Indian constitutional problems, because opinion in Burma on the future of the country had not at the date of the issue of the White Paper become crystallized The Statutory Commission recommended that Burma should cease to be a part of British India, and we have arrived at the same conclusion In these circumstances it is our intention to deal fully with the future constitution of Burma in Part III of our Report, where we shall set out and discuss the reasons which have appeared to us to justify our recommendation.

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I - PROVINCIAL AUTONOMY

(1) The Autonomous Provinces

Definition of Provincial Autonomy.

46. The scheme of Provincial Autonomy, as we understand it, is one whereby each of the Governors' Provinces will possess a Governor and Legislature having exclusive authority within the province in a precisely defined sphere, and in that sphere free from all control (or practically all control) by the Central Government This we conceive to be the essence of Provincial Autonomy, though no doubt there is room for wide differences of opinion with regard to the manner in

which that exclusive authority is to be exercised. It represents a fundamental departure from the present system, under which the Provincial Governments exercise a devolved and not an original authority. The Act of 1919 and the Devolution Rules made under it, by earmarking certain subjects as "provincial subjects," created indeed a sphere within which responsibility for the functions of government rests primarily upon the provincial authorities; but that responsibility is not an exclusive one, since the Governor-General in Council and the Central Legislature still exercise an extensive authority throughout the whole of the Provinces. Under the proposals in the White Paper, the Central Government and Legislature would, generally speaking, cease to possess in the Governors' Provinces any legal power or authority with respect to any matter falling within the exclusive Provincial sphere.

The principle accepted.

47. "The Provinces are the domain," wrote the authors of the Montagu-Chelmsford Report, "in which the earlier steps towards the progressive realisation of responsible government should be taken. Some measure of responsibility should be given at once, and our aim is to give complete responsibility as soon as conditions permit." Their intention was to give an independent life to the organisms which would in future form the members of a British India Federation, an ideal at that time not within measurable distance. To-day, so rapid has been the march of events since 1919, we are discussing not only a Federation of British India, but an all-India Federation; and we could not ourselves contemplate such a Federation, whether it comes about in the immediate or more distant future, which in its British India aspect is composed of other than autonomous units, independent within their own sphere of any central control. We have arrived, therefore, at the same conclusion on this subject as the Statutory Commission, and substantially on the same grounds.[1] Of all the proposals in the White Paper, Provincial Autonomy has received the greatest measure of support on every side. The economic, geographical, and racial differences between the Provinces on the one hand and the sense of provincial individuality on the

[1] Report, Vol. II, para. 27.

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other, have greatly impressed us. The vast distances of India and the increasing complexity of modern government are strong additional arguments in favour of the completion of the process begun in 1919, and of a development in which the life of each Province can find vigorous and adequate expression, free from interference by a remote central government. We proceed, therefore, to consider the manner in which the proposals of His Majesty's Government give practical effect to the autonomy principle.

The Ambit of Provincial Autonomy.

Distribution of legislative powers between Centre and Provinces.

48. The first problem is to define the sphere within which Provincial Autonomy is to be operative. The method adopted by the White Paper (following in this respect the broad lines of Dominion Federal Constitutions) is to distribute legislative power between the Central and Provincial Legislatures respectively, and to define the Central and Provincial spheres of government by reference to this distribution.[2] In Appendix VI, List II, of the White Paper are set out the matters with respect to which the Provincial Legislatures are to have exclusive legislative powers, and the sphere of Provincial Autonomy in effect comprises all the subjects in this list. The subjects in List II (the exclusively Provincial List) represent generally with certain additions

those which the Devolution Rules under the Act of 1919 earmarked as "provincial subjects" and we are of opinion that in its broad outline the List provides a satisfactory definition of the provincial sphere. We shall have certain suggestions and recommendations to make later, when we come to consider the List in detail, and there are a few subjects included in it with regard to which a complete provincialization might, as it seems to us, be prejudicial to the interests of India, as a whole. It will, however, be convenient to leave this aspect of the matter for subsequent examination.

Concurrent legislative powers.

49. There is, however, another List (Appendix VI, List III), in which are set out a number of subjects with respect to which it is proposed that the Central Legislature shall have a power of legislating concurrently with the Provincial Legislatures, with appropriate provision for resolving a possible conflict of laws.[1] Experience has shown, both in India and elsewhere, that there are certain matters which cannot be allocated exclusively either to a Central or to a Provincial Legislature, and for which, though it is often desirable that provincial legislation should make provision, it is equally necessary that the Central Legislature should also have a legislative jurisdiction, to enable it in some cases to secure uniformity in the main principles of law throughout the country, in others to guide and encourage provincial effort, and in others again to provide remedies for mischiefs arising in the provincial sphere but extending or liable to extend beyond the boundaries of a single Province. Instances

[1] White Paper, Proposals 111, 112.

[2] White Paper, Proposal 114.

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of the first are provided by the subject matter of the great Indian Codes, of the second by such matters as labour legislation, and of the third by legislation for the prevention and control of epidemic disease. It would in our view be disastrous if the uniformity of law which the Indian Codes provide were destroyed or whittled away by the uncoordinated action of Provincial Legislatures. On the other hand, local conditions necessarily vary from Province to Province, and Provincial Legislatures ought to have the power of adapting general legislation of this kind to meet the particular circumstances of a Province.

Provincial legislation to meet local requirements

50. We had at first thought that the case could be met by so defining the powers of the Central Legislature as to restrict its competence in this sphere to the enacting of broad principles of law, the Provincial Legislatures being left to legislate for the Provinces within the general framework thus laid down. We are, however, satisfied that, with regard at any rate to some of the subjects in List III, the local conditions in a Province may require the enactment of legislation modifying a general law applicable to the Province, and that the power of enacting complementary legislation alone would not suffice. If it be said that this difficulty could be met by entrusting the Central Legislature with the power themselves to legislate for the purposes of meeting the particular needs of a single Province, our answer would be that it is wrong in principle to give the Central Legislature power to enact legislation for one Province only, on a matter which *ex hypothesi* must necessarily be one of exclusively local concern. There is no analogy between local legislation enacted by the Parliament at Westminster at the instance of a single local authority, and a power to legislate for an autonomous British India Province. Nor can we disregard the obvious fact that the necessity for obtaining Central legislation

might in practice cause grave difficulties to a Province, especially in cases where the demand for an amendment of the law is immediate and urgent.

Conflicts of law in concurrent field.

51. The White Paper proposes that where there is conflict between the Central and Provincial legislation with respect to a subject comprised in List III the Central Legislation shall prevail, unless the Provincial legislation is reserved for and receives the assent of the Governor-General.[1] This appears to us an appropriate device for effecting a reconciliation between the two points of view, and it has the further merit of avoiding the legal difficulties to which any attempt further to refine the definitions in Part III for the purposes of distributing the legislative power between the Central and Provincial Legislatures would of necessity create. We, therefore, approve the principle of the Concurrent List, though we reserve for subsequent consideration the question of the particular subjects which in our opinion ought to be included in it.

[1] White Paper, Proposal 114.

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The residuary legislative power.

52. We have pointed out above that in List II are set out the matters with respect to which the Provincial Legislatures are to have exclusive legislative powers and that, generally speaking, this List provides a satisfactory definition of the provincial sphere. List I in Appendix VI similarly sets out the matters with respect to which the Central Legislature is to have exclusive legislative powers; and these two Lists (together with the Concurrent List) are so widely drawn that they might seem at first sight to cover the whole field of possible legislative activity, and to leave no residue of legislative power unallocated. It would, however, be beyond the skill of any draftsman to guarantee that no potential subject of legislation has been overlooked, nor can it be assumed that new subjects of legislation, unknown and unsuspected at the present time, may not hereafter arise; and therefore, however carefully the Lists are drawn, a residue of subjects must remain, however small it may be, which it is necessary to allocate either to the Central Legislature or to the Provincial Legislatures. The plan adopted in the White Paper is that the allocation of this residue should be left to the discretion of the Governor-General, and settled by him *ad hoc* on each occasion when the need for legislation arises.

Cleavage of opinion in India.

53. We cannot regard this plan as a satisfactory one, though it may be inevitable. We gathered from our discussions with the Indian delegates that a profound cleavage of opinion exists in India with regard to the allocation of residuary legislative powers, one school of thought, mainly Hindu, holding as a matter of principle that these powers should be allocated to the Centre, and the other, mainly Muhammadan, holding not less strongly that they should be allocated to the Provinces. In these circumstances the proposals of His Majesty's Government are obviously in the nature of a compromise It will be observed that, for the purpose of reducing the residuary powers to the smallest possible compass, the lists of subjects dealt with in List I and List II respectively are necessarily of great length and complexity; but that if it had been possible to allocate residuary legislative powers to *e.g.* the Provinces, only a list of Central powers would have been required, with a provision to the effect that the legislative powers of the Provinces extended to all powers not expressly allocated to the Centre; and conversely, if the residue had been allocated to the Centre. This broadly is the plan which has been adopted in Canada and Australia, the residuary powers being vested,

in the case of Canada in the Dominion Legislature, and, in the case of Australia, in the Legislatures of the States. Experience has unhappily shown that even so it has been impossible to avoid much litigation on the question whether legislation on a particular subject falls within the competence of one Legislature or the other; and it is only too clear that the possibility of litigation is immensely increased by the plan adopted in the White Paper. The more the two Lists enter into detail, the greater that possibility must be, and yet, if the principle of two Lists is accepted, we do not see how this detailed statement of legislative powers can well be avoided.

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Difficulty of rejecting White Paper proposal.

54. We do not doubt that these difficulties were as present to the minds of His Majesty's Government as they are to our own, and we fully appreciate the reasons which have led them to adopt a plan on which criticism can so readily fasten. We are unwilling, therefore, to recommend an alteration in the White Paper proposal, though we have not overlooked the scope for litigation which two long and detailed Lists, each defining an exclusive legislative jurisdiction, must afford. It seems to us that the logical conclusion of the proposals in the White Paper would be the allocation to the Provincial Legislatures of all legislative powers (apart from those included in the Concurrent List) which are not expressly assigned to the Central Legislature. We recognise that logic is not always a safe guide where an apparently irreconcilable difference of opinion exists between the great Indian communities on a matter which both of them appear to regard as one of principle.

Existing and Future Governors' Provinces

The present Governors' Provinces

55. The existing Governors' Provinces are the Presidencies of Bengal, Madras and Bombay, and the Provinces known as the United Provinces, the Punjab, Bihar and Orissa, the Central Provinces, Assam, the North-West Frontier Province, and Burma. We have considered the problem of Burma in a separate part of our Report, and it is unnecessary to say more in this place than that we have come to the conclusion that Burma should cease to be a part of British India. The White Paper proposes that there shall in future be a new Province of Sind and a new Province of Orissa, the former being carved out of the Presidency of Bombay, and the latter mainly out of the Province now known as Bihar and Orissa, but also including a portion of what is now Madras territory, and a very small area from the Central Provinces.

Sind

56. On the constitution of Sind as a separate Governor's Province, we quote the following passage from the Statutory Commission's Report: "We have great sympathy with the claim, but there are grave administrative objections to isolating Sind and depriving it of the powerful backing of Bombay before the future of the Sukkur Barrage is assured and the major readjustments which it will entail have been effected. Even if it were held that the time is ripe for the separation of Sind to be seriously considered there would have to be a close and detailed enquiry into the financial consequences which would follow from such a step before a decision could be taken."[1] When this opinion was recorded the Barrage was still under construction, but it is now completed and successfully in operation, though the general fall in agricultural prices has necessarily affected the financial position. The financial difficulties involved in the creation of an autonomous Sind have been examined first by an expert committee and later by a conference

[1] Report, Vol. [illegible]

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of representatives of Sind presided over by an official, and the findings of both Committees have been reviewed by the Government of India and by His Majesty's Government. We are informed that it is now anticipated that the new Province would start with an initial yearly deficit of about ¾ crore, which would be gradually extinguished in about 15 years, and that after that period the Province should be able to dispense with assistance. We discuss elsewhere the effect of the separation of Sind from Bombay upon both Central and Bombay finances, and it is sufficient to say here that the difficulties do not appear to be of such magnitude as to form any insuperable bar to the establishment of a separate Province.

Case for separation from Bombay.

57. The difficulty of administering from Bombay a territory racially and geographically separated from the rest of the Presidency has proved capable of being overcome under present arrangements; but the case for separation, which is strong under any form of administration, is greatly strengthened if the administration of Bombay is transferred over to an Executive responsible to the Legislature. The question is, however, one which has aroused acute communal controversy. The case for separation has been pressed not merely by the Sindi Muhammadans but also by Muhammadan leaders elsewhere in India. Separation has been as strongly opposed by the Hindu minority in Sind who, though they only form about 27 per cent of the population, are economically powerful and under the present provincial franchise actually form a majority of the voters. It is impossible not to sympathise with the desire of the Hindu community in Sind to remain under the rule of the richer Bombay Government, which is also likely to share their communal sympathies. Nevertheless, it seems to us that, apart from other considerations, the communal difficulties that would arise from attempting to administer Sind from Bombay would be no less great than those which may face a separate Sind administration. It is proposed that the Hindus shall be allotted a considerable proportion of the seats in the Legislature, and they will of course enjoy the protection of the special safeguards for minorities which will apply to the minorities in other Provinces; and it may be noted that a Sindi Muhammadan witness who appeared before us recognized that the Hindus must play an important part in the government of the Province.[1] We have reached the conclusion that Sind ought to become a separate Governor's Province. In view of the very special importance to the Province of the continued success of the Barrage project and of the very large financial issues involved, which will concern the Federal Government as well as the Province of Sind, it is proposed that the Governor of Sind should have a special responsibility for the administration of the Barrage.[2] This seems to us an essential provision and is one to which we understand that little or no objection has been taken.

[1] Minutes of Evidence Q. - 4, 196.
[2] White Paper, Proposal 70.

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Orissa.

58. The Statutory Commission describe the union which now exists between Orissa and Bihar as "a glaring example of the artificial connection of areas which are not naturally related";[1] and the demand of the Ooriyas for separation has been long and insistent. The main difficulty here is a financial one, since Orissa is now and may well remain in deficit area. A separate Province of Orissa would

however be perhaps the most homogeneous province in the whole of British India, both racially and linguistically; the communal difficulty is practically non-existent; and its claim appears to have the sympathy and support of all parties in India. The financial effect of the creation of the proposed new Province upon the finances of the Federation is discussed elsewhere, and we are satisfied that no difficulties of a financial kind beyond those which already exist are likely to be caused thereby. In these circumstances we recommend that a new Province of Orissa be constituted.

The Central Provinces and the Berars.

59. We may here mention the situation which exists in the Central Provinces in connection with the territory known as the Berars. This territory forms part of the dominions of His Exalted Highness the Nizam of Hyderabad, but has since 1853 been under British administration and in 1902 was made the subject of a perpetual lease granted by His Exalted Highness It is administered with, but not as part of, the Central Provinces. The inhabitants elect a certain number of representatives, who are then formally nominated as members of the Central Provinces Legislature; and legislation both of that Legislature and of the Central Legislature is applied to the Berars through the machinery of the Foreign Jurisdiction Act. It has been announced that an arrangement has now been made between the Government of India and His Exalted Highness, whereby, without derogation from His Exalted Highness's sovereignty, the Berars shall be administered as part of a new Province to be known as the Central Provinces and the Berars, that is to say, if and when Provincial Autonomy is established under the new Constitution. We have learned with great satisfaction of this arrangement, which will obviate the difficulties which might otherwise have arisen if the setting up of responsible government in the Central Provinces had necessitated a severance between two areas which have so long been in substance, if not in form, under a single administration; and we think that the successful working of Provincial Autonomy in the Central Provinces will owe much to His Exalted Highness's wise and far-seeing action.

Provincial boundaries.

60. The White Paper proposes that the present Governors' Provinces shall retain the boundaries which exist at the present time, with such alterations as the establishment of Sind and Orissa may involve.[2] In the case of Sind, the new Province is to comprise the whole area at present under the jurisdiction of the Commissioner in

[1] Report, Vol. II, para 38.
[2] White Paper, Proposal 61.

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Sind, and it is suggested that the boundaries of Orissa shall be those recommended by a Committee which inquired into the subject in 1932, with certain modifications considered desirable by the Government of India. We understand that in the case of Orissa the boundaries proposed have given rise to local controversy; but the question involves administrative considerations on which we are not competent to express an opinion, and in our judgment it must be left to the Government of India and His Majesty's Government to determine. The White Paper does not refer to the possibility of a future revision or adjustment of provincial boundaries, but provision will have to be made in the Constitution Act for this purpose; and we are clear that it should be a function of the Central Legislature and Government, though the initiative must come from the Provinces concerned.

Constitution of future Governors' Provinces.

61. It is possible that in the future it may be found desirable to constitute new Governors' Provinces, either by a sub-division or an amalgamation of existing areas. We think that the power to create a new Governor's Province should be reserved to the Crown and to Parliament, but that it should only be exercised on an address from the Central Legislature, and, where an existing Governor's Province is affected, at the request of that Province.

(2) THE PROVINCIAL EXECUTIVE.

The Provincial Executive.

62. We come now to the proposals of the White Paper on the subject of the Provincial Executive, and it will be convenient in this part of our Report to consider two general questions, first, the Provincial Executive as such, and second, its relation to the Provincial Legislature.

The present Executive.

63. The Statutory Commission in the first part of their Report describe the Provincial Executive as it at present exists, and it is unnecessary for us to repeat in detail what they have already said.[1] In brief, the "provincial subjects" with which the Provincial Executive is now concerned are sub-divided into "transferred subjects" and "reserved subjects." The first group are administered by the Governor acting with Ministers, the second by the Governor in Council. The Members of the Governor's Council, who may not exceed four and of whom by an invariable rule at least half are Indians, are appointed by His Majesty and one at least must have been for not less than twelve years in the service of the Crown in India; the Ministers are appointed by the Governor. The Governor presides at meetings of his Executive Council, where ordinarily the decision of the majority prevails, though the Governor has in case of equality of votes a casting vote and in certain circumstances a right to over-rule his Councillors. The Ministers are chosen by the Governor from the elected members of the Provincial Legislative Council and are not

[1] Report, Vol. I, paras. 156-161.

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members of the Executive Council, though in many Provinces both Executive Councillors and Ministers meet regularly under the presidency of the Governor for the purpose of discussing matters of common interest; in Madras, for example, we understand that it has been always the practice to regard Councillors and Ministers as forming as it were a single body, by which all questions of policy are discussed, though the responsibility for actual decisions upon them rests upon the Governor in Council or on the Governor advised by his Ministers, as the case may be, according to the nature of the subject. The Governor is required to be "guided by" the advice of his Ministers in relation to transferred subjects, unless he sees sufficient cause to dissent, in which case he may require action to be taken otherwise than in accordance with that advice. Ministers hold office at the Governor's pleasure, but the financial powers of the Legislature give the latter the means of influencing ministerial policy. The members of Council, though *ex-officio* members of the Legislature, are independent of it and in practice are appointed for a fixed term of five years.

Executive power of authority to be vested in Governor.

64. The White Paper proposes to do away with this dyarchical system. It vests the whole executive power and authority of the Province in the Governor himself, as the representative of the King, and it provides the Governor with a Council of Ministers to "aid and advise" him in all matters, except such matters as will

be left by the Constitution to the Governor's discretion.[1] The proposal, therefore, is to give Ministers, who (according to the White Paper) may not be officials and will be members of a Legislature to which they will look for support, the constitutional right to advise the Governor over practically the whole of the provincial sphere. It will be observed that Provincial Autonomy does not necessarily imply a system of government of this kind, and the two should not be confused, but, for the reasons which we have given earlier in this Report, we think that the time has now come for enabling Indians to assume a greater measure of responsibility for the government of the Provinces, and in our opinion (though we reserve for subsequent consideration the details of the scheme) the proposal in the White Paper which we have described above is the correct constitutional method of bringing about that result. It is according to precedent, and it is based upon English constitutional theory and practice.

Analogy with British constitutional system.

65. The adoption of English constitutional forms need not, however, imply, and the White Paper does not contemplate, the establishment in each Province of a system analogous in all respects to that which prevails in the United Kingdom at the present day; nor

[1] White Paper, Proposal 6?. There will be in a few Provinces certain cluded Areas" (i.e., tracts where any advanced form of political nization is unsuited to the primitive character of the inhabitants). These be administered by the Governor himself and Ministers will have no titutional right to advise him in connexion with them.

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is there any inconsistency in this, as some have supposed. A brief examination of the manner in which from time to time those forms have been adapted in practice to the needs of other communities in allegiance to the Crown will sufficiently make this clear.

British constitutional theory.

66. In English theory all executive power (with certain exceptions not here relevant) is to-day, as it has been from the earliest times, vested in the Monarch. The limits of this power are determined in part by common law and in part by statute, but within those limits the manner of its exercise is not subject to any legal fetter, save in so far as a statute may specify formalities for the doing of a particular executive act. But at all times in English history the Monarch has had counsellors to aid and advise him in the exercise of his power, and their status and functions at different periods mark the successive stages of constitutional development. The great nobles, who had claimed a prescriptive right to be consulted and who were often powerful enough to subject to their will a weak or reluctant King, gave place, as the complexity of government increased, to a more permanent Council, whose members were the King's servants, selected by him from nobles and commoners alike, whom he consulted or not as he pleased, and who became the instruments of his own policy. The growing influence of the House of Commons at a later date made it necessary for the King always to number among his advisers persons who were members of that body; and the last stage was reached when he sought the advice, not of the Council as a whole, but only of those members of it who represented the predominant political party of the day. By the middle of the 19th century, constitutional usage and practice had so far supplemented constitutional law that the powers possessed in legal theory by the Sovereign were almost entirely exercised on the advice of Ministers possessing for the time being the confidence of Parliament.

Its flexibility.

67. This ingenious and convenient adjustment of a legal framework to the successive stages of political evolution has given a flexibility to the English Constitution which it would have been impossible to secure by any Act of Parliament or written Declaration of Rights. To imprison constitutional practice and usage within the four corners of a written document is to run the risk of making it barren for the future. This was foreseen by the framers of those Dominion and Colonial Constitutions which have followed the British model; and, since it by no means followed that the circumstances of a new State were appropriate for the application of the whole body of English doctrine in its most highly developed form, recourse was had to another device, no less flexible, for the purpose of indicating to the Governor General or Governor how far in the exercise of the executive power he was to regard himself as bound by English precedent and analogy. This is the Instrument of Instructions, and, though Dominion and Colonial Constitutions, and especially the former, necessarily embody much that is still

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regulated by usage and custom in the United Kingdom, the Instrument of Instructions long preserved (and in many cases still preserves) a sphere in which constitutional evolution might continue without involving any change in the legal framework of the Constitution itself.

Adaptation to different stages of constitutional development.

68. It has thus been found possible in communities in every state of development which possess constitutions based upon the English model, without doing violence to existing forms of government, to bring them into harmony with the political circumstances of the time. Constitutional usage and practice is an ever changing body of doctrine and not an immutable body of dogma; nor can it be assumed *a priori* that usage and practice which may be eminently adapted to the circumstances of the United Kingdom can be applied without any qualification to the circumstances of India. This would be to assume that the political development in India has reached the same stage as in this country, and we shall not be taken as implying either censure or criticism, if we say that the facts are notoriously otherwise The picture presented by India is that of a country with a population so far from homogeneous and so divided by racial and religious antagonisms that government by unqualified majority rule is admittedly impossible at the present time; and the proposal of the White Paper that even the Governor's Council of Ministers should be so constituted as to include as far as possible members of important minority communities appears to be firmly supported by the great mass of Indian political opinion.

Governor's power to dissent from Ministers' advice.

69. The White Paper recognises, rightly as it seems to us, that in these circumstances the Governor, in whom the executive power of the Province is legally vested, may from time to time have to exercise on his own responsibility powers which elsewhere and under other conditions might be exercised on the advice of Ministers.[1] It is permissible to recall the religious and political conflicts which distracted our own country for so many generations before the settlement which followed the events of 1688. It is not until after that date that the beginnings of responsible government, as we now know it, are to be found: and for many years the Monarch, even if he sought the advice of Ministers continued to act on his own judgment in every branch of the administration. Not until the two great parties in the State could trust each other not to abuse the political power which the hazard of the polls might place in the hands of one

of them would it have been possible effectively to secure peace and good government without the presence of some authority able and willing to exercise that power independently of both.

The Instrument of Instructions.

70. It would be possible to rely entirely upon prerogative instruments for the purpose of adapting English constitutional practice to the conditions which obtain to-day in India. Thus the Instrument of Instructions might direct the Governor to be guided generally

[1] White Paper, Proposals 70-73.

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by the advice which he receives from his Ministers, but reserve to him a very wide discretion to act upon his own responsibility when the circumstances seemed so to require; and for this plan many precedents are to be found in the history of Colonial Constitutions. Or the Instrument might specify certain particular matters with regard to which the Governor is to exercise his own discretion, whatever the advice of his Ministers might be; and precedents for this are also to be found. The White Paper,[1] however, introduces a new method for which, so far as we are aware, no exact precedent is to be found, but which is not hastily to be rejected on that account. It proposes that the Constitution Act shall declare that for certain specified purposes the Governor is to have a "special responsibility,"[1] and we understand the intention to be that the Instrument of Instructions shall refer in terms to these special responsibilities and direct the Governor, where in his opinion one of them is involved, to take such action as he thinks that the circumstances may require, even if this means dissenting from the advice tendered to him by his Ministers; while in other matters he will be guided by that advice.

Relations between Governor and Ministers.

71. We have already pointed out that in the present Government of India Act there is a provision which requires the Governor to be "guided by" the advice of his Ministers in all matters relating to transferred subjects, unless he sees sufficient cause to dissent from their opinion. The White Paper, as we read it, does not propose that the Constitution Act itself shall contain any provisions on this subject; it provides that the Governor shall have a Council of Ministers to aid and advise him, but leaves his relations with his Ministers to be determined wholly by the Instrument of Instructions. We approve this departure from the provisions of the existing Act, for to impose a statutory obligation on the Governor to be guided by ministerial advice is to convert a constitutional convention into a rule of law, and thus perhaps to bring it, most undesirably, within the cognizance of the Courts. We are also of opinion that to declare in the Act itself that certain special responsibilities are to rest upon the Governor instead of leaving them to be enumerated hereafter in the Instrument of Instructions is a plan which has much to commend it. In the first place, it will be an assurance to Indian public opinion that the discretionary power of the Governor to dissent from his Ministers' advice is not intended to be unlimited; and secondly, it will secure to Parliament the right to consider and debate the scope of the Governor's powers, before the Constitution Bill passes finally from their control.

Constitutional implications of Governor's "special responsibilities"

72. We do not understand the declaration of a special responsibility with respect to a particular matter to mean or even to suggest that on every occasion when a question relating to that matter comes up for decision, the decision is to be that of the Governor to the exclusion of his Ministers. In no sense does it define a sphere from which the

[1] White Paper, Proposal 70.

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action of Ministers is excluded. In our view, it does no more than indicate a sphere of action in which it will be constitutionally proper for the Governor, after receiving ministerial advice, to signify his dissent from it and even to act in opposition to it, if in his own unfettered judgment he is of opinion that the circumstances of the case so require. Nor do we anticipate that the occasions on which a Governor will find it necessary so to dissent or to act in opposition to the advice given to him are in normal circumstances likely to be numerous; and certainly they will not be, as some appear to think, of daily occurrence. We leave for later consideration the list of the special responsibilities themselves and the manner in which they are defined, but, if we have rightly appreciated their place in the Constitution, it appears to us unnecessary to seek to define them with meticulous accuracy, though we readily admit that their general scope and purpose should be set out with sufficient precision.

Parliament and the Instrument of Instructions.

73. The White Paper proposes a novel procedure in connexion with the Instrument of Instructions, viz., that an opportunity shall be given to Parliament of expressing an opinion upon it before it is finally issued by the Crown.[1] There is, we think, ample justification for this proposal, which has been rightly extended not only to the original Instrument but also to any subsequent amendments of it; and we are satisfied that in no other way can Parliament so effectively exercise an influence upon Indian constitutional development. It is essential that the vital importance of the Instrument of Instructions in the evolution of the new Indian Constitution should be fully appreciated. Thus, Ministers would have no constitutional right under the Act to tender advice upon a matter declared by the Act to be within the Governor's own discretion; but the Governor could in any event, and doubtless often would, consult them before his own decision was made; and if at some future time it seemed that this power of consultation might with safety be made mandatory and not permissive, we can see nothing inconsistent with the Act in an amendment of the Instrument of Instructions for such a purpose. But so grave are the issues involved in the Indian constitutional problem that it would be neither wise nor safe in the case of India to deny Parliament a voice in the determination of the progressive stages of that evolution. The initiative in proposing any change in the Instrument must necessarily rest with the Crown's advisers, that is to say, with the government of the day; but the consequences of any action taken may be so far reaching and so difficult to foresee that Parliament, if denied a prior right of intervention, may find itself compromised in the discharge of the responsibilities which it has assumed towards India, and yet powerless to do anything save to protest. For this reason we are clearly of opinion that, as the White Paper proposes, it is with Parliament that the final word should rest.

[1] White Paper, Proposal 64.

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Special Questions connected with the Executive

74. We have now considered the nature of the Provincial Executive in broad outline; but five questions of capital importance which arise in connexion with the subject remain to be examined. These are: (i) The nature of the Governor's special responsibilities, (ii) the Governor's selection of Ministers; (iii) the field in which Ministers are to be entitled to advise the Governor; (iv) the arrangements whereby the Governor will secure that his information with

regard to the current affairs of the Province is adequate to enable him to discharge his special responsibilities; (v) the special and additional powers, if any, which the Governor ought to possess

(i) *Nature of the Governor's Special Responsibilities*

The Governor's "special responsibilities" defined.

75. It is proposed in the White Paper that the Governor shall have a special responsibility in respect of—

(*a*) the prevention of any grave menace to the peace or tranquillity of the Province, or any part thereof; (*b*) the safeguarding of the legitimate interests of minorities; (*c*) the securing to the members of the Public Services of any rights provided for them by the Constitution and the safeguarding of their legitimate interests, (*d*) the prevention of commercial discrimination; (*e*) the protection of the rights of any Indian State; (*f*) the administration of areas declared, in accordance with provisions in that behalf, to be partially excluded areas; (*g*) securing the execution of orders lawfully issued by the Governor-General.[1]

The Governors of the North West Frontier Province and of the proposed new Province of Sind are respectively declared to have in addition a special responsibility in respect of

(*h*) any matter affecting the Governor's responsibilities as Agent of the Governor General in the Tribal and the Trans Border Areas; and (*i*) the administration of the Sukkur Barrage

Peace and tranquillity of the Province, Minorities, Public Services.

76. With regard to (*a*), the Joint Memorandum of the British India Delegation urges a double limitation on the scope of this special responsibility, the first, that the special responsibility itself should be restricted to cases in which the menace arises from subversive movements or activities tending to crimes of violence; and secondly, that any action taken by the Governor under it should be confined to the Department of Law and Order. We cannot accept these suggestions. Terrorist, subversive movements, and crimes of violence, are no doubt among the graver menaces to the peace or tranquillity of a Province; but they do not by any means exhaust the cases in which such a menace may occur, and we can see no logical reason for the distinction which the Joint Memorandum seeks to draw. Still less can we see any justification for restricting the Governor's action to the department of law and order, by which

[1] White Paper, Proposal 70.

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we suppose is meant the Police Department There are many other branches of administration in which ill advised measures may give rise to a menace to the peace or tranquillity of the Province, and we can readily conceive circumstances in connection with land revenue or public health, to mention no others, which might well have this effect With regard to (*b*), the Joint Memorandum suggests that the phrase "legitimate interests" should be more clearly defined, and that it should be made clear that the minorities referred to are the racial and religious minorities generally included by usage in that expression We doubt if it would be possible to define "legitimate interests" any more precisely. The obvious intention is to secure some means by which minorities can be reasonably assured of fair treatment at the hands of majorities, and "legitimate interests" seems to us a very suitable and reasonable formula. Nor do we think that any good purpose would be served by attempting to give a legal definition of "minorities," the only effect of which would be to limit the protection which the Governor's special responsibility is intended to afford. No doubt it will be the five or six well recognised and

more important minorities in whose interests the Governor's powers will usually be involved; but there are certainly other well-defined sections of the population who may from time to time require protection, and we can see no justification for defining the expression for the purpose of excluding them. We need hardly say that we have not in mind a minority in the political or parliamentary sense, and no reasonable person would, we think, ever so construe the word. With regard to (c), the Joint Memorandum proposes that here also the expression "legitimate interests" should be clearly defined, and that the Governor's special responsibilities should be restricted to the rights and privileges guaranteed by the Constitution. We assume that the intention of the White Paper is to guarantee to public servants not only their legal rights but also equitable treatment, a thing not susceptible in our opinion of legal definition. The authors of the Joint Memorandum would no doubt say that Ministers can be trusted to act in these matters in a reasonable way, and we do not doubt that this is so; but we think that they should also assume that neither will Provincial Governors act unreasonably in discharging the special responsibilities which the Constitution Act will impose upon them. If Ministers in fact act reasonably, as no doubt they will, the occasions on which a Governor will find it necessary to dissent from the advice which they tender to him may never in practice arise.

Rights of State Partially Excluded Areas.

77. We discuss elsewhere (*d*), *i.e.*, the prevention of commercial discrimination. With regard to (*e*), the "rights" here referred to must necessarily mean rights enjoyed by a State in matters not covered by its Instrument of Accession,[1] which may be prejudiced by administrative or legislative action in a neighbouring Province. The duty, as we understand it, is laid on the Governor to secure

[1] See *infra* para. 152.

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that the balance is held evenly between Province and State, and clearly in a matter of this kind he will be guided by the advice or directions of the Governor-General. With regard to (*f*), the responsibility for the government of partially excluded (as opposed to wholly excluded) areas will primarily rest upon Ministers; but we agree that, in view of the responsibility which Parliament has assumed towards the inhabitants of the backward and less civilised tracts in India, it is right to impose a special responsibility in this respect upon the Governor.

Execution of orders of Governor-General.

78. With regard to (*g*), it is clear that this must be a special responsibility of the Governor. The Governor General exercises a wide range of powers in responsibility to the Secretary of State and through him to Parliament. The exercise of some of these powers may from time to time require the co-operation of provincial administrations, and a Governor must be in a position to give effect to any directions or orders of the Governor-General designed to secure this object, even if their execution may not be acceptable to his own Ministers. We refer elsewhere to the case where a difference of opinion has occurred between Federal and Provincial Ministers in the ministerial sphere, arising out of directions given by the former which the latter are unwilling to obey.[1]

Special circumstances of North-West Frontier Province and Sind.

79. With regard to (*h*), it is apparent that the close connection between the Governor-General's exclusive responsibility for Defence and External Affairs and the administration of the Tribal and other Trans-border Areas which march with the administered districts of the North-West Frontier Province makes a provision of this kind

necessary. With regard to (i), we agree that this special responsibility is necessary in the case of Sind, in view of the vital influence upon the future finances of the Province of the successful operation of the Sukkur irrigation scheme and of the large financial interest which the Central Government has in it.

(ii) *The Governor's Selection of Ministers.*

Qualifications proposed for Ministers.

80. The White Paper proposes that the Instrument of Instructions shall direct the Governor to select his Ministers in consultation with the person who in his judgment is likely to command the largest following in the legislatures, and to appoint those persons, including so far as possible members of important minority communities, who will best be in a position collectively to command the confidence of the Legislature. It is also proposed that Ministers must be, or become within a stated period (by which we understand a period of six or twelve months to be intended) members of the Legislature.[2]

[1] *Infra*, paras. 220-221.
[2] White Paper, Proposal 66.

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Ministerial responsibility and representation of communities.

81. The question how a direction to the Governor to include among his Ministers, so far as possible, members of important minority communities is to be reconciled with ministerial responsibility, in the accepted sense of that expression, to a Legislature which is itself based on a system of communal representation and in which the numbers of the representatives of the different communities are fixed by statute and unalterable, will be more conveniently discussed later when we examine the more general question of the relation of the Provincial Executive to the Provincial Legislature.[1] We accordingly confine ourselves here to a consideration of the proposal in the White Paper that every Minister shall be, or become within a stated period, a member of the Legislature.

Difficulties of proposal that Ministers should be elected Members of Legislature.

82 Indian opinion appears to attach great importance to this qualification as securing in the most effective manner control by the Legislature over the Executive It is unknown to the constitutional law of the United Kingdom; but it has long been the rule in this country that a Minister must either find a seat within a reasonable time or resign his appointment, unless the Prime Minister should see fit to recommend him for a peerage, so that the qualification exists in practice, if not in law, though during the War there were instances of Ministers who had a seat in neither House On the other hand we were impressed by the argument that at least in some Provinces the Governor might find it difficult to constitute an efficient Ministry from the members of a small and inexperienced Legislature; and it is no doubt true that in India owing to the very small proportion which the educated classes bear to the total population, there is no certainty that in the smaller Provinces the Legislatures will always contain men fit or experienced enough to assume the heavy responsibilities which Provincial Autonomy under the new order must necessarily involve. It was, therefore, suggested to us that the Governor ought not to be thus restricted in his choice, and that he ought to be in a position, if the need should arise, to select a Minister or Ministers from persons otherwise qualified for appointment but to whom the doubtful pleasures of electioneering might make no appeal.

Suggested methods for meeting difficulty.

83. In the Provinces with a bicameral Legislature, in which a nominated element will find a place, the difficulty is unlikely to arise, if it were understood, or perhaps provided in the Act itself, that these nominations were reserved to the Governor's discretion.

The real difficulty arises in the unicameral Legislatures, most of which are likely to be found in the smaller and poorer Provinces. Various suggestions were made to us, (1) that the Governor should be empowered, if he thought fit, to appoint a Minister from outside the Legislature, the Minister so appointed having precisely the same status as other Ministers and sharing their policy and political fortunes, with the right to take part in all proceedings of

¹ *Infra*, paras. 108—113.

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the Legislature, though not entitled to vote, (2) that in addition to the elected members, there should be one or two members nominated by the Governor, who would be eligible for appointment as Ministers, though not necessarily so appointed; (3) that the Governor should be empowered, if he desired to have an outside Minister, to nominate the person whom he selected as a member *ad hoc* of the Legislature; and (4) that the Ministers themselves should be empowered, if so requested by the Governor, to co-opt someone from outside and present him to the Governor, for appointment. Of these suggestions, we unhesitatingly prefer the first. We can see no advantage, and many disadvantages, in the second and third, both of which appear to us to have an air of unreality about them; and we reject the fourth as infringing the Governor's prerogative.

Governor's choice should not be fettered

84 We have come to the conclusion, after giving our best consideration to the matter, that it would be wise in the circumstances not to limit the Governor's choice of Ministers in the manner proposed by the White Paper, and that the first of the above suggestions should be adopted. The fear that the control of the Legislature over Ministers would be thereby weakened is, in our opinion, greatly exaggerated; in France, for example, where instances of Ministers appointed from outside the two Chambers are by no means unknown, there seems to be no evidence of any weakening of Parliamentary control over the Governments of which they were members. We cannot suppose for a moment that a Governor would employ a power of this kind for the purpose of appointing a whole Ministry from outside the Legislature, but, if this is thought to be a danger to be guarded against, the matter can be dealt with by appropriate directions in the Instrument of Instructions. The Indian delegates, we think, saw in the unrestricted choice of Ministers a means of re-introducing an official bloc, and it is true that one of the proposals in the White Paper is that the holding of any office under the Crown other than that of Minister shall disqualify for membership of a Provincial Legislature, so that no official could become a Minister, if Membership of the Legislature is a necessary qualification for Ministerial appointments. In our view an official bloc is more correctly defined as a body of members of the Legislature who vote in accordance with official instructions, but who are not themselves Ministers or members of the Government. The presence in the Council of Ministers of a Minister who is chosen from outside the Legislature, even supposing him to be an official (which we do not suggest), could not in any way restrict or diminish the control of the Legislature over Ministers; a Minister so chosen will not be less responsible to the Legislature than any of his colleagues; and he will have to defend his actions against criticisms in the Legislature itself. We see, therefore, nothing inconsistent with constitutional principle in what we now propose, and we are of opinion that it will often be found to add an element of strength

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to the Provincial Executive. We need, however, scarcely say that a Governor would be very unwise to appoint a Minister in this way unless he had satisfied himself that the other Ministers were willing to accept him as a colleague.

(iii) *The Sphere of Action of Ministers*

Law and order.

85. The White Paper, as we have already stated, proposes that Ministers shall advise the Governor in all matters other than the administration of Excluded Areas and matters left by law to the Governor's own discretion. With regard to the first of these two exceptions, we approve the conclusions, and are content to adopt the arguments, of the Statutory Commission; and with regard to the second, such matters must *ex hypothesi* be left to the Governor's sole decision, though he may, and no doubt often will, consult Ministers upon them. With regard to other matters which fall within the provincial sphere, the only question, but one of first rate importance on which there is any substantial dispute, is whether the administration of the subjects known compendiously as "law and order" should be retained in the Governor's hands.

Arguments for and against transfer.

86. This question is one on which strong views are held on both sides. On the one hand, it is urged that the grant of responsible government to an autonomous Province would be a mockery, if the administration of law and order were withheld. On the other, it is objected that the maintenance of law and order is in India so vital a function of the Executive that it would be incurring too great a risk to transfer it to Indian Ministers, until they had proved their capacity in other and less dangerous fields; that the morale of the police would be imperilled by political pressure upon Ministers, which they might not have the strength or courage to resist; and that the impartiality of the force in the event of communal disturbances might become suspect. It would be idle to deny the force of these arguments, especially when it is remembered that the public order and security of a Province depends not more on the executive action of the police than on the efficient performance of his administrative, as distinguished from judicial, functions by the district magistrate, who would under the proposals in the White Paper equally be subject to the control of a Minister. Nevertheless, after an anxious consideration of all the circumstances, we do not see our way to differ from the conclusion reached, not without hesitation, by the Statutory Commission.

Control of law and order an essential attribute of responsible Government.

87. We find ourselves unable to conceive a government to which the quality of responsibility could be attributed if it were prohibited from exercising the first and most fundamental of all functions of government, that of the preservation of order. In no other sphere has the word "responsibility" so profound and

[1] White Paper, Proposal 70 (a).

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significant a meaning; and we doubt whether Ministers who are denied the opportunity of learning responsibility in this sphere are ever likely to become proficient in the other arts of government. From one point of view indeed the transfer of these functions to an Indian Minister may be in the interest of the police themselves, whom it will no longer be possible to attack, as they have been attacked in the past, as agents of oppression acting on behalf of an alien power; but we prefer to base our conclusion

upon the broader grounds indicated above. Nevertheless, it must not be supposed that we are blind to the risks implicit in the course which we advocate, for these, in our opinion, cannot be regarded lightly or as the phantoms of a reactionary imagination. The qualities most essential in a police force, discipline, impartiality, and confidence in its officers, are precisely those which would be most quickly undermined by any suspicion of political influence or pressure exercised from above; and it would indeed be disastrous in any Province the police force, to whose constancy and discipline in most difficult circumstances India owes a debt not easily to be repaid, were to be sacrificed to the exigencies of a party or to appease the political supporters of a Minister. If, however, Indian Ministers are to be given an opportunity of showing the stuff of which they are made, as we think they must, these are risks which must be run. Nothing will afford a more conclusive test of the fitness of Indians to govern themselves than their handling of this particular problem, and by their success or failure public opinion both in this country and in India will judge them.

The Governor's special responsibility.

88. There are, however, other proposals in the White Paper which have a very important bearing upon this question. In the first place it will be remembered that one of the matters in respect of which the Governor is declared to have a special responsibility is "the prevention of any grave menace to the peace or tranquillity of the province or any part thereof". If therefore, the Governor should be of opinion that the administration of law and order is, through the action or inaction of Ministers, jeopardizing the peace or tranquillity of the province, it will be open to him to take such action as he may think fit to meet the situation. This does not, of course, imply interference in the routine administration of the police force; so to interfere would obviously diminish the sense of responsibility in Ministers and would not be in the interest of the police force itself. But if, by reason of ill-timed measures of economy or of the exertion of political or other improper influence upon the force the preservation of order were endangered, then, in our opinion, the intervention of the Governor under his special responsibility would be justified. We are not to be take as assuming that such a state of things must necessarily arise; we only point out that if it should, the White Paper does no leave the Governor without a remedy. Secondly, another s

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responsibility of the Governor is "the securing to the members of the Public Services of any rights provided for them by the Constitution and the safeguarding of their legitimate interests." These are important safeguards and should go far to qualify the fears of those who are apprehensive lest the high quality and standards of the present police forces will suffer with their transfer to the control of Indian Ministers.

The Police Rules.

89. The importance in this connection of the body of regulations known as the Police Rules was brought to our notice. The administration of the police is largely governed by these rules, which are promulgated from time to time under powers given to various Police Acts; and it was suggested to us that provision ought to be made giving the Governor a discretionary power to assent to, or dissent from, any proposed alteration in the rules. We do not doubt that the efficiency, and perhaps the discipline, of a police force might be

affected by amendments of a particular kind; but to give so extensive a power to the Governor seems to us neither necessary nor desirable. In the first place, we understand that a large number of the rules deal with routine matters of quite minor importance, and are constantly amended in effect on the responsibility of the Inspector-General of Police himself; and it would clearly be absurd if every amendment of this kind required the Governor's concurrence. On the other hand, it may well be that the subject matter of some of the rules is so vital to the well-being of the police force that they ought not to be amended without at least the Governor's knowledge. We have not been able in the time at our disposal to make a minute study of the rules; but if His Majesty's Government, after a further examination of the subject, came to the conclusion that certain rules were properly included in a category of this kind and made special provision with regard to them, and possibly also with regard to the Police Acts themselves, in the legislative proposals which they will submit to Parliament, we should be prepared to agree; nor can we see why a safeguard of this kind need operate in any way to diminish the responsibility for the administration of law and order, which, as we have already said, we think should in future rest upon Indian Ministers themselves.

The Special Branch.

90. There is one other matter which arises in connection with the police and to which we think it convenient to draw attention in this place. It has been represented to us very forcibly that, whatever may be the decision with regard to the transfer of law and order generally, special provision ought to be made with regard to that branch of the police which is concerned with the suppression of terrorism. We do not here refer to those members of the police who are occupied in combating terrorism as part of their regular functions in the prevention of crime and maintenance of order, but to that which is sometimes known as the Special Branch, a body of carefully selected officers who devote themselves to the collection and sifting of information on which their comrades in the force can subsequently

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take action. Their work necessarily involves the employment of confidential agents and others from whom the information is obtained; and it is stated to us, and we see no reason to doubt the fact, that the supply of information derived from these sources would at once cease, if the identity of those who furnished it became known, or might become known, outside the police force itself. This being so, it has been urged that the operations of the Special Branch ought to be placed under the exclusive control of the Governor, since otherwise the organisation which at present exists, and which is an essential instrument in the fight against terrorism, would be disrupted, and would be difficult, and perhaps impossible, to reconstitute.

Secret intelligence reports.

91. The problem is a difficult one, though at the moment it is only of immediate importance in the Province of Bengal. The Special Branch is an integral part of the police force and is in no sense independent of the provincial Inspector General of Police. It is exclusively concerned with the collection and sifting of information, and any executive action which may follow from its investigations is undertaken by the ordinary police force. But if it is impossible to distinguish between the two, then (it is said) an Indian Minister, who may have to defend subsequently before the Legislature an arrest or prosecution made or begun by his orders, must have the right to satisfy himself that the information is trustworthy on which he is invited to act, and the

names of the agents from whom it has been obtained could not in the last resort be withheld from him. We think that those who argue thus are not acquainted with the general practice in matters of this kind. We are informed by those who have experience in such matters in this country that in a secret service case the names of agents are in no circumstances disclosed to Ministers, and that (for reasons which we fully appreciate) a case has never been known in which a Minister has even asked for the information. We think that Indian Ministers, if and when they take over the administration of law and order, would be wise themselves to adopt so salutary a convention; but we are satisfied that the difficulty arises, not because Indian Ministers are likely to disclose the names of agents or even to demand them, but because the agents have an ineradicable suspicion that the information will in fact become known. So long as this suspicion or belief exists, the consequences are the same, whether it is ill-founded or not.

Powers of Governor

92. We do not think it desirable that the Constitution Act should vest in the Governor himself the control of the Special Branch. On the other hand we can conceive a state of things arising in which the discharge of the special responsibility to which we have referred above might make it necessary for him to direct the Inspector-General of Police in the Province in no circumstances to disclose the source of any information which may be obtained by the Special Branch to any person whatsoever without the Governor's prior approval. It might even be thought advisable to refer to this possibility in his Instrument of Instructions. But the necessity

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for action of this kind could scarcely arise, unless the efforts of the police in the suppression of terrorism had not the sympathy, or at least failed to gain the support, of Ministers, a possibility which we hope that we may regard as remote; and in that case it would in our opinion be preferable to empower the Governor, with the consent of the Governor General, to take over and administer himself the whole anti-terrorist organisation until such time as he and the Governor General are satisfied, perhaps after a change of Ministry, that it can be safely entrusted once more to those whose constitutional duty it is to see that the law is properly enforced. This would, we think involve the appointment of some person selected by the Governor at his discretion to act as his spokesman for the time being in the Legislature. We might add that it was suggested to us as an alternative proposal that the Special Branches throughout India should in future be under the control of the Governor-General, since there is at the present time an Intelligence Service under the control of the Central Government which necessarily works in close contact with all the provincial police forces. This, however, would involve the creation of a new reserved service under the control of the Governor-General, a course which we should deprecate. In our opinion it would be a more convenient arrangement if in future the intelligence work at the Centre in its internal security aspect were assigned to the Department of Defence as part of the latter's normal functions. The central intelligence service would in that case continue to act as a clearing house for information generally, and the local police would be able, and no doubt anxious, to avail themselves of its services; but to impose on the Governor-General any statutory functions in relation to the police administration of a Province seems to us a plan which has nothing to commend it.

(iv) *The Governor and the Provincial Administration*

Relations between Governor and provincial administration.

93. The question has been raised whether the Governor under a provincial Constitution such as is now proposed will have at his disposal sufficient information as to the current affairs of the Province to enable him to take timely action in a case where the due discharge of any of his special responsibilities seems to call for his intervention This is a vital issue, for the special powers of the Governor would be entirely nugatory if, by reason of his divorce from current administrative business, the circumstances which might require the exercise of those powers were brought too late to his notice. In our opinion, however, the proposals in the White Paper, if fully carried into effect, are adequate for the Governor's protection in this respect.

Importance of the office of Governor.

94. The Governor's office is at the present time one of great prestige and authority. Of a large part of the Provincial Administration he is not only the titular but the actual head; and in the administration of the "transferred subjects" also, where he is even now guided by the advice of Ministers, he is able to exercise an influence, both legitimate and constitutional, to an extent for

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which it would probably be difficult to find analogies in the more politically developed States of Europe and America. He presides at meetings of his Ministers, and they are accustomed to look to him for assistance and support; and we see no reason why for many years to come a Council of Ministers, advising over the whole field, and not only over a part, of the provincial administration, should be anxious to deprive themselves of the assistance which a Governor of ripe experience will be able to give them or regard themselves as representatives of an opposing interest. On the other hand, it has been pointed out to us that much of the information of the Governor with regard to current affairs is derived from his intercourse with the Secretaries to Government, almost always members of the Civil Service, who by a practice of long standing enjoy the right of regular access to him for the purpose of discussing cases which in their view merit his personal attention; and obviously the Governor as the head of the provincial Executive will have the unquestionable right to send for and to see any officer of his Government at any time No doubt under a different order such personal communication between a Governor and the Secretaries would not occur without the assent, express or implied, of the Ministers concerned: but we find it difficult to suppose either that that assent would be withheld or that a Minister would not be kept fully acquainted by the Secretary in charge of the Minister's department with any discussion which had taken place between himself and the Governor. Nevertheless, we recognise that, not only for the avoidance of error or misunderstanding, but also as a protection to the Governor in cases where his relations with Ministers may not be always harmonious, it is well to put certain specific powers in the Governor's hands.

Rules of Executive business.

95. The White Paper authorises the Governor, after consultation with his Ministers, to make, at his discretion, any rules which he regards as requisite to regulate the disposal of Government business and the procedure to be observed in its conduct, and for the transmission to himself of all such information as he may direct.[1] We understand that both the distribution and conduct of public business have in India long been regulated almost entirely by rules of this kind, and there is therefore nothing strange or novel in the proposal. The Governor's rules under the new Constitution will no doubt

require to be framed on rather different lines, and, if they are modified in some directions, to be expanded in others; but we see no ground for supposing that the rule making power cannot be adapted to meet all the reasonable requirements of the case. It would, for example, be competent for the Governor to prescribe by rule that orders on certain specified matters are not to be passed unless the decision on them has been initialled by himself. This would ensure that all matters in that particular sphere were at least brought to his attention before action was

[1] White Paper, Proposal 69.

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taken upon them. We are not suggesting that the decision taken would on that account be the Governor's alone, without, or contrary to, the advice of his Ministers. Unless his special responsibilities were involved, his decision would be guided by their advice; but that advice would be given after discussion, and the Governor would be in a position, if he had views of his own on the matter, to invite Ministers to weigh and consider them before their advice is given. We give the above as an example only, for we do not conceive it our duty, even if we had the necessary special knowledge to make recommendations on all the matters which the rule making power could possibly include. But we think there ought in any case to be a rule laying down with precision the relations between the Governor, his Ministers, and the Secretaries to Government. If it is to be the Council of Ministers who will in future aid and advise the Governor, it is plain that the Governor can no longer be advised directly and independently by the Secretaries to Government; but we should regard it as extremely unfortunate if the latter were deprived of access to the Governor or prevented from submitting to him such papers as in their opinion he ought to see. We do not attempt to lay down the form which rules for this purpose should take; but it is a matter to which we attach considerable importance and it is one to which we desire to draw the special attention of His Majesty's Government.

The Governor's Staff.

96. It is essential that the Governor should have at his disposal an adequate personal and secretarial staff of his own. This is recognised in the White Paper, where it is proposed (rightly, in our opinion) that the salary and allowances of such a staff are to be fixed by Order in Council, and, though included in the annual proposals for the appropriation of revenue, are not to be submitted to the vote of the Legislature.[1] We think also that there should be at the head of this staff a capable and experienced officer of high standing. Such an officer would be a man fully conversant with the current affairs of the Province and in close contact with the administration; but we do not for a moment contemplate that he should exercise any executive functions himself; still less, as some of the Indian delegates seemed to think, that he should occupy in any sense a position analogous to that of a Deputy-Governor. But so long as a sphere remains in which the Governor is not necessarily guided by the advice of Ministers, we cannot doubt that the Governor will require the assistance which an officer of this kind can give. There is no precise analogy between his position, as we conceive it, and that of any present-day civil servant in Whitehall; and we have no doubt that his duties will vary from time to time as constitutional practice and usage grows. In some respects he will occupy the position at present filled by the Governor's Private

Secretary, but we think it right that he should in future be known by some other designation, and we suggest for consideration that of Secretary to the Governor.

[1] White Paper, Proposal 65

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Influence of Governor on working of responsible government.

97. It is clear that the successful working of responsible government in the Provinces will be very greatly influenced by the character and experience of the provincial Governors. We concur with everything which has been said by the Statutory Commission on the part which the Governors have played in the working of the reforms of 1919,[1] and we do not think that the part which they will play in the future will be any less important or valuable. We take note here, though the matter is not altogether relevant to the subject which we have been discussing, of a suggestion pressed by some of the British India Delegation that in future Governors should always be appointed from the United Kingdom and indeed that there should be a statutory prohibition against the appointment of persons who are members of the Indian Civil Service. We cannot accept this suggestion. We hold strongly the view that His Majesty's selection of Governors ought not to be fettered in any way; and, that there may be no misunderstanding on the point, we desire to state our belief that, in the future no less than in the past, men in every way fitted for appointment as the Governor of a Province will be found among members of the Civil Service who have distinguished themselves elsewhere in India.

(v) *Special Powers of Governor*

Governor's special powers.

98. It is plain that, for the due discharge of his special responsibilities, it may not always suffice for the Governor to be able to dissent from the advice tendered to him by Ministers; in some circumstances it may be essential that further powers should be at his disposal. This is recognised in the White Paper, in which it is proposed to give the Governor certain legislative and financial powers. The powers which it is proposed to entrust to the Governor in the event of the breakdown in the constitutional machinery may also be considered under this head.

Legislative powers.

99. As regards legislative powers, the White Paper proposes to empower the Governor at his discretion, to present, or cause to be presented, a Bill to the Legislature with a Message that it is essential, having regard to any of his special responsibilities, that the Bill should become law before a date specified in the Message, and to declare by Message in respect of any Bill already introduced that it should for similar reasons become law before a stated date in a form specified in the Message.[2] If before the date specified the Bill is not passed, or is not passed in the specified form, as the case may be, the Governor will be empowered at his discretion to enact it as a Governor's Act either with or without any amendments made by the Legislature after receipt of his Message. Under the present Government of India Act, where a provincial Legislature has refused leave to introduce, or has failed to pass in the form recommended by the Governor, any Bill relating to a reserved subject, the Governor may

[1] Report, Vol. I, para. 165
[2] White Paper, Proposal 92

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certify that the passage of the Bill is essential for the discharge of his responsibility for the subject and thereupon the Bill shall be deemed to have passed and shall, on signature by the Governor,

become an Act of the Legislature. It will be seen, therefore, that one difference between the existing procedure and that which is now proposed is that in the former case a certified Bill is deemed to be an Act of the Legislature, whereas in the latter it is declared to be (what indeed it is) a Governor's Act. So far as this difference in nomenclature is concerned, we concur in the proposal of the White Paper, for we can see no possible advantage in describing an Act as the Act of the Legislature, when the Legislature has expressly declined to enact it. But the members of the British India Delegaton desired to go further, and, though they did not dissent from giving the Governor the power in appropriate circumstances to enact legislation, urged that he should do so on his own exclusive responsibility, and that the Legislature ought not to be associated with the process in any way. In their view the proposals in the White Paper tended in the first place to blur the respective responsibilities of Governor and Legislature, and in the second to enable the Governor to seek support in the Legislature against his Ministers and thus to undermine the position of the latter.

100. There is much force in the British India argument, and if we thought that the intention, or even the effect, of the proposal were to enable the Governor to go behind the back of his Ministers for the purpose of securing the passage of legislation which they themselves were unwilling to sponsor, we think that the argument would be conclusive. We are not, however, clear that this is necessarily so. We agree that, if a Governor finds it necessary to make use of his special legislative powers, the responsibility for using them must be his alone, and that he ought not to seek to persuade the Legislature to take any part of it upon themselves. On the other hand, though it is no less undesirable that the Governor should, save in most exceptional circumstances, exercise a power which is ordinarily the prerogative of the Legislature, there is much to be said for giving the Legislature up to the eleventh hour an opportunity to reconsider Legislative proposals which perhaps they have declined for political or party reasons to consider upon the merits, and for thus enabling a Bill to become law by the regular constitutional process; and it would certainly be unfortunate if a Governor found himself compelled to exercise his special powers, when he might be able to achieve his object in some other way. This we conceive to be the intention underlying the White Paper proposals, and, if so, they ought not lightly to be rejected. They also leave the way open for a compromise between Governor and Legislature, in the event of a difference of opinion between the two; for the Governor may, as the result of further discussion, be willing to sacrifice part of a Bill, if he can secure the passage of the remainder and the Legislature may be willing on their side to pass the Bill, if those particular parts are omitted. Governor's powers should be exercised independently of Legislature.

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101. We doubt if a Governor ought ever to present a Bill to the Legislature which his Ministers have refused to sponsor. If he does so, because he anticipates that he will secure a majority for the Bill, then it must be assumed that his Ministers no longer possess the confidence of the Legislature, and his proper course would be to dismiss them and appoint others in their place. On the other hand, if Ministers are of opinion that there is a reasonable chance of the Bill passing, because there is a change of attitude in the Legislature or on any other ground, then, as it seems to us, it is for Ministers themselves to sponsor the Bill, if they approve it. The logical Modification of White Paper proposal suggested.

conclusion would seem to be that a Governor should exercise his legislative powers, when he thinks it necessary so to do, without reference to the Legislature at all, even though his Ministers may hold as strongly as he does that the legislation is necessary; *a fortiori*, where they are opposed to it. But we are impressed with the advantage which would accrue, if an opportunity were given to the Legislature for revising a hasty or unconsidered decision previously made or threatened. We accordingly recommend that the Governor should be empowered to notify the Legislature by Message (if, that is, the Legislature is sitting) that he intends at the expiration of, say, one month to enact a Governor's Act, the terms of which would be set out in the Message. The Legislature would be under no obligation to take any action on the Message; but it would be open to them, if they thought fit, to present an address to the Governor at any time before the expiration of the month, praying him only to enact the proposed Act with certain amendments, which the Governor could consider upon their merits, or the Legislature might even think fit to reverse their former decision and to forestall the Governor by themselves enacting legislation in the sense desired by the Governor. There would, if this recommendation is accepted, be no presentation of a Bill to the Legislature, as proposed by the White Paper, but only a notification of the Governor's intention to exercise his powers; and we do not see how it could then be said that the Governor was seeking to enlist support against his Ministers or trying to induce the Legislature to share a responsibility which belongs to him alone. We observe that the White Paper proposes that whereas temporary Ordinances, if extended beyond six months, are to be laid before Parliament,[1] there is no similar proposal in the case of Governor's Acts. We think that the same rules should apply in both cases.

Ordinances.

102. The next special power which it is proposed to give the Governor is the power (for use in emergencies) of issuing temporary Ordinances, to be valid for not more than six months in the first instance, but renewable once for a similar period.[2] At the present time, this power is only exercisable whether for a single Province or for the whole of British India by the Governor-General; but we cannot doubt that in an autonomous Province it should in future

[1] White Paper, Proposal 103.
[2] *Ibid.*

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be vested in the Governor himself. It was urged by the British India Delegation that the power should continue to be vested in the Governor-General; and if it should be thought that his concurrence should be obtained, we do not dissent, though we should be content with the proposal in the White Paper as it stands, but in any case it is obvious that no Governor would exercise so unusual and important a power without prior consultation with the Governor-General.

Appropriation of revenues.

103. The White Paper next proposes that the Governor shall be empowered to include in the annual appropriation of revenue authenticated by him any additional amounts which he regards as necessary for the discharge of his special responsibilities, provided that the total amount so authenticated under any head of expenditure does not exceed the amount which was proposed to be appropriated under that head when the financial proposals for the year were first laid before the Legislature; that is to say, the Governor will have power to restore any sums included by him for the above purposes

in the original proposals for appropriation, if the Legislature has subsequently rejected or reduced them.[1] We have no comment to make upon this proposal, for it is clearly essential that the Governor should possess powers of this kind, if he is to be in a position at all times to discharge the special responsibilities which it is intended to impose upon him, and we think that the limitation which is suggested on the exercise of the power is a reasonable one

Ordinances made on Ministers' advice.

104 It is to be observed that the Governor will only be able to avail himself of the special powers, legislative and financial, which we have described above, when in his opinion one of his special responsibilities is involved and the due discharge of that responsibility requires the exercise of the power In the case of a Governor's Act or the restoration of rejected appropriation we have no doubt that this is a proper restriction to impose In the case, however, of the Ordinance making power, the matter does not seem at first sight to be so clear, for an Ordinance assumes the existence of an emergency, and this might arise in connection with any branch of the administration, whether the Governor's special responsibilities were involved or not But we notice that the White Paper also proposes that the Governor shall have power to make Ordinances for the good government of the Province at any time when the Legislature is not in session, if his Ministers are satisfied that an emergency exists which renders such a course necessary.[2] Such an Ordinance is to be laid before the Provincial Legislature and will cease to operate at the expiration of six weeks from the date of the re-assembly of the Legislature, unless in the meantime the Legislature has disapproved it by resolution There are thus two kinds of Ordinance contemplated the first made on the Governor's own responsibility and in the

[1] White Paper Proposal 99
[2] White Paper Proposal 101

discharge of his special responsibilities the second on the advice of Ministers and therefore necessarily in a sphere in which the Governor will be guided by their advice In these circumstances the whole field appears to be covered and we are satisfied that the Governor's power of making Ordinances on his own responsibility is properly limited to those cases only in which his special responsibilities are involved

Governor's powers in event of breakdown of institution.

105 Lastly, it is proposed to give the Governor power at his discretion, if at any time he is satisfied that a situation has arisen which for the time being renders it impossible for the government of the Province to be carried on in accordance with the provisions of the Constitution Act, by Proclamation to assume to himself all such powers vested in any provincial authority as appear to him to be necessary for the purpose of securing that the Government of the Province shall be carried on effectively This Proclamation will have the same effect as an Act of Parliament, and will cease to be in force at the expiration of six months unless previously approved by resolutions of both Houses of Parliament, though it may be at any time revoked by similar resolutions.[1] Events in more than one Province since the reforms of 1919 have shown that powers of this kind are unhappily not yet obsolete; and it is too soon to predict that even under responsible government their existence will never be necessary We do not read the White Paper as meaning that the Governor, in the event of a breakdown of the Constitutional machinery, is bound to take over the whole government of the Province and administer it himself on his own

undivided responsibility. We conceive that the intention is to provide also for the possibility of a partial breakdown and to enable the Governor to take over part only of the machinery of government, leaving the remainder to function according to the ordinary law. Thus the Governor might, if the breakdown were in the legislative machinery of the Province alone, still carry on the government with the aid of his Ministers, if they were willing to support him; we are speaking of course of such a case as the refusal of the Legislature to function at all, and not merely to lesser conflicts or disputes between it and the Governor. If we are right in our interpretation, we approve the proposals, and we are of opinion that it would be unwise, if not impracticable, to specify in any detail the action which the Governor should be authorised to take. A constitutional breakdown implies no ordinary crisis and it is impossible to foresee what measures the circumstances might demand. It is right, therefore, that the Governor should be armed with a general discretionary power to adopt such remedies as the case may require.

Responsibility of Governor to Secretary of State and Parliament.

106. It is clear that where the Governor is exercising his special powers or is acting in his discretion, he must be constitutionally responsible to some authority, and that responsibility will be in the first instance to the Governor General and through him to the

[1] White Paper, Proposal 105.

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Secretary of State and ultimately to Parliament. This is the effect of the White Paper proposal, and it is unnecessary for us to comment upon it.[1]

(3) Relations between the Provincial Executive and Legislature.

Aspects of responsible government of India.

107. We have said in an earlier part of this Report that by responsible government we mean a form of government in which the Executive is in some sense accountable to the Legislature, and we have pointed out the undeniable fact that, while the Indian demand is for parliamentary government on the British model, the essential conditions of parliamentary government as it is understood in the United Kingdom neither exist in India at the present time nor are likely to come into existence for many years to come. For this reason it seems desirable that we should attempt to examine in greater detail the relations between the Executive and the Legislature under the plan proposed in the White Paper.

Composite Ministries proposed by White Paper.

108. The White Paper proposes that the Governor shall be directed by his Instrument of Instructions to select his Ministers "in consultation with the person who, in his judgment, is likely to command the largest following in the Legislature" and "to appoint those persons (including so far as possible members of important minority communities) who will best be in a position collectively to command the confidence of the Legislature."[2] Assuming, as we do, that the Legislature will be based on a system of communal representation, it will be seen that this proposal contemplates the formation of a composite Ministry, representative not (as in the United Kingdom) of a single majority party or even of a coalition of parties, but also of minorities as such. We do not suppose that any other plan would commend itself to the minority communities at the present moment, and we must, therefore, accept it as a necessary element in the scheme; but it is not parliamentary government in the British sense.

Desirability of encouraging parties on non-communal lines.

109. It is our earnest hope that in the future parties may develop in India which will cut across communal lines; but we entertain some doubt whether the proposed directions in the Instrument of Instructions, if literally obeyed, may not operate to prevent both the growth of parties and the formation of homogeneous Ministries. The obligation imposed upon the Governor of including among his Ministers members of important minority communities is no doubt qualified by the words "so far as possible"; and much will depend upon the meaning which is to be attached to this qualification. It may be read as meaning that, whenever a member of a minority community is willing to accept office then the Governor is to have no option but to appoint him; and it would be exceedingly unfortunate if a Governor at some future date were thereby prevented from

[1] White Paper, Proposal 72.

[2] White Paper, Proposal 67.

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encouraging a healthier development on non-communal lines. We think, therefore, that the formula proposed in the White Paper merits re-examination with a view to giving greater latitude to the Governor. We recognise that nothing ought to be done at the present time which would excite suspicion or distrust in the mind of the minorities and we have no doubt that for many years to come the minorities will expect to be represented in every Ministry, but we should be sorry to think that this is to be an eternal and immutable feature of Indian politics.

A strong Executive not incompatible with parliamentary government.

110. We have emphasised the vital importance in India of the Executive It has seemed to us in the course of our discussions with the British India delegates that in their anxiety to increase the prerogatives of the Legislature, they have been apt to overlook the functions of the Executive, an attitude not perhaps surprising in those to whom at the present time the Legislature offers the main field of political activity. But if the responsibility for government is henceforward to be borne by Indians themselves they will do well to remember that to magnify the Legislature at the expense of the Executive is to diminish the authority of the latter and to weaken the sense of responsibility of both. The function of the Executive is to govern and to administer; that of the Legislature to vote supply, to criticize, to educate public opinion, and to legislate; and great mischief may result from attempts by the latter to invade the executive sphere. The belief that parliamentary government is incompatible with a strong Executive is no doubt responsible for the distrust with which parliamentary institutions have come to be regarded in many parts of the world. The United Kingdom affords a sufficient proof that a strong Executive may co-exist even with an omnipotent Parliament if the necessary conditions are present; and the strength of the Executive in this country may, we think, be attributed with not more justice to the support of a disciplined party than to the inveterate and cherished tradition of Parliament that the prerogatives of the Legislature are not to be jealously or factiously asserted in such a way as to prevent the King's Government from being carried on. "His Majesty's Opposition" is not an idle phrase but embodies a constitutional doctrine of great significance.

Collective responsibility of Ministers.

111. A composite Ministry, though for the moment we accept it as inevitable, seems to us unlikely for some time to produce a strong Executive, since it will not have the support of a disciplined party, and the tradition of which we have spoken is as yet unknown in India. It is difficult to avoid the conclusion that its members will

tend to regard themselves as responsible to the various communities whom they represent rather than to the Legislature as a whole. The British-India delegates laid indeed great stress upon the collective responsibility of the Provincial Ministries, and in their Joint Memorandum have urged that the Instrument of Instructions should definitely contain a direction to the Governor that the collective responsibility of Ministers is to be introduced forthwith.

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This seems to us to confuse cause and effect, and we confess our inability to understand how collective responsibility could be thus "introduced" by any directions to a Governor. The Governor can, and we hope will, insist that, when his Ministers advise him, they do so with a single voice. The collective responsibility of Ministers to the Legislature is, however, not a rule of law to be put into operation at discretion, but a constitutional convention which only usage and practice can define or enforce, and which depends no less upon the attitude of the Legislature than upon that of Ministers themselves. A wise Governor will seek to encourage political conditions which favour the growth of this convention; but since it is the outcome and not the cause of ministerial solidarity, it is as likely to be hindered as to be helped by artificial devices which take no account of the realities of the situation. It is an element of strength in an Executive, and for that reason we attach great importance to it; but in our judgment its evolution and adoption are matters which must be left to Indians themselves.

Dangers of government by groups.

112. A Ministry such as we have described, with no permanent majority on which to rely and without the bond of a common political faith, may well find it difficult to assert its authority over the Legislature, and here we think that a very real danger lies. Nothing could be more disastrous to India than a system under which the Executive is at the mercy of a number of constantly shifting groups in the Legislature. The account given by the Statutory Commission of the working of the existing provincial Constitution is not very encouraging. "Governors in choosing their Ministers," they observe, "have had an exceptionally difficult task. It could seldom be predicted what following a Minister would have in the Legislature, quite apart from the fact that his acceptance of office was often followed, owing to personal rivalries, by the detachment of some of his previous adherents,"[1]—a statement amply confirmed by our own information: and it should also be remembered that Ministers will not in future be able to rely upon the official bloc, which, in the words of the Statutory Commission, "has helped to decrease the instability of the balance of existing groups in the Legislature, and has made the tenure of office of Ministers far less precarious."[2] It may be said that these difficulties will disappear under responsible government. We hope that it will be so, and we should not have recommended that the experiment be made, if we were not satisfied that under no other system can Indians learn how to govern themselves. But we are bound to add that in our opinion a sense of corporate responsibility in Legislatures constituted wholly on a communal basis is likely to be of slow growth, and that the education of provincial legislators may sometimes prove an expensive luxury to the Province. We have therefore considered in what way it may be possible to strengthen the Executive and to make its authority more effective.

[1] Report, Vol. I, para. 226.
[2] *Ibid.*, para. 228.

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113. An Executive must necessarily lack authority unless it can be certain of a reasonable length of tenure, and our attention has been drawn to more than one device for the purpose of securing this end. Among these was a suggestion that the Ministry, after its appointment by the Governor, should present itself to the Legislature and demand a vote of confidence; and that when this had been accorded it should remain in office for a fixed period, which might be from one to three years, and should only be removable (unless previously dismissed by the Governor) by a vote of non-confidence, passed by something more than a bare majority of votes. Under this proposal, a Ministry would remain in office, even though the Legislature might refuse supply, and the responsibility for any untoward consequences which might ensue would be upon Legislature alone. This plan, attractive at first sight, does not seem to us a workable one. A legislature, determined to withhold support from a new Ministry, might refuse time after time to give the initial vote of confidence, and the result would be a complete deadlock. Secondly, the existence of a Ministry which had not in fact the confidence of the Legislature could in practice be made impossible, whether or not the formal vote of non-confidence was passed; for we doubt whether any Ministers would be willing to continue in office, even though they enjoyed a statutory tenure, if they could secure neither supply nor the passage of any part of their legislative programme. There is not in our opinion any effective method of securing by statutory enactment under a system of parliamentary government permanence of tenure to a Ministry faced by a consistently hostile Legislature; and to this we might add that nothing is less likely to promote a sense of responsibility in the Legislature than the knowledge that, even if only for a specified and limited period, the Executive is irremovable. Methods for securing stability of the Executive.

114. We see, however, no reason why a hostile vote, even on a demand for supply, should always involve the fate of a Ministry, and no doubt in the course of time the matter will come to be regulated by constitutional conventions. Much will depend upon the Governor and on the support which he is able to give to the Ministers of his choice. It has often been assumed that, when the Governor finds himself compelled to make use of his special powers, the occasion will ordinarily be a difference between himself and his Ministers. We think on the contrary that differences are much more likely to occur, where the Legislature acts irresponsibly, between the Legislature on the one hand, and the Ministry, supported by the Governor, on the other; and where this is so, it seems to us that circumstances might well arise in which the use of his special-powers by the Governor or an intimation to the Legislature of his intention to use them would contribute to the strength of a Ministry which was willing to co-operate with him. Ministers would not, of course, be entitled of their own motion to advise the Governor to make use of his special powers; it would be the Governor himself who would Use of Governor's special powers to support Ministers.

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request their advice. But Ministers, if prepared to advise, would have to accept responsibility to the Legislature for any action taken; since the Governor's special powers are not intended to be used for the purpose of enabling Ministers to escape a responsibility which properly belongs to them. We think, however, that the judicious use by the Governor of these powers in the manner indicated (even

though they are limited to the sphere of his special responsibilities) might often prove invaluable for the purpose of strengthening a Ministry which is willing to carry on the necessary functions of government but cannot do so owing to factious and irresponsible obstruction in the Legislature, and which the Governor is satisfied can not be replaced by any alternative Ministry which would not encounter similar treatment.

The reserve powers of the Governor.

115 Under most Constitutions, the power of dissolution is a potent instrument in bringing an irresponsible Legislature to its senses; for members are thereby brought face to face with constituents to whom they must justify their conduct It will be available in the Indian Provinces, according to the scheme of the White Paper, at the Governor's discretion This, we agree, is as it should be, and we think that even the threat to use it will often enable a Governor to give extremely effective support to his Ministry; but we do not forget that under a system of communal representation even a general election is likely to produce a Legislature with the same complexion as its predecessor, at least until the time, which may be very far distant, when political parties are more independent of communal divisions But, even if the constitutional machinery should break down altogether, the White Paper provides a means whereby the King's Government may still be carried on We have already drawn attention to the proposal that the Governor should in such an emergency be empowered to assume to himself (subject to the over-riding authority of Parliament) all such powers vested by law in any provincial authority as appear to him to be necessary for the administration of the affairs of the Province; and therefore in the last resort he could suspend the Legislature and for the time being administer the Province without it Here also we think that, if his Ministers were willing to support him, and to take the responsibility of doing so, he might properly inform them of his willingness to exercise his powers upon their advice, subject always to such directions as he might receive from the Governor General Provisions of this kind, as the Statutory Commission rightly observe, "are no repudiation of the principle of self-government; they cannot come into play unless the principle of self government is itself repudiated."[1] We hope, and are willing to believe, that it will never become necessary to put them into operation: but we are none the less persuaded that their inclusion in the Constitution will have a beneficial effect Nothing is more calculated to quicken a sense of responsibility in the Legislatures than a clear perception of the

[1] Report, Vol. II, para. 99

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inevitable consequences of irresponsibility; and, though it may seem paradoxical to say so, we think that the existence in the background of these reserve powers of the Governor may well prove the real and most effective guarantee for the development of a genuine system of responsible government.

Solution of the problem lies in Indian hands.

116 We may be thought to have laid too great emphasis upon the difficulties likely to arise in the working of the new Constitution in an Indian Province; but we have endeavoured to describe the situation as it has presented itself to us without prejudice or exaggeration; and if we have emphasised its difficulties it is because we are anxious that Indians should not be misled by deceptive analogies with the constitutional practice of the United Kingdom, Responsible government is not, as it has sometimes seemed to us that they regard it, an automatic device or even a machine running

on a motive power of its own. It postulates conditions which Indians themselves have still to create, nor is a technique which the British people have painfully developed in the course of many generations to be acquired in India in the twinkling of an eye. The success of the experiment which we advocate can only be proved by its results, and the political education both of the Legislatures and of the electorate is likely to be a slow process. But we are none the less convinced that Indians must be given the opportunity of purchasing their own experience, and we are at one with the Statutory Commission in seeing no future for responsible government in India unless the difficulties to which we have thought it right to draw attention are not directly faced and in the end surmounted.

(4) THE PROVINCIAL LEGISLATURE

Unicameral and Bicameral Legislatures

Provincial Legislatures.

117 The White Paper proposes that in each Governor's Province there shall be a Provincial Legislature consisting, except in Bengal, the United Provinces, and Bihar, of the King, represented by the Governor, and a Legislative Assembly. In the three Provinces named, it is proposed that the Legislature shall consist of the King, represented by the Governor, and a Legislative Council as well as a Legislative Assembly. It is also proposed that after a period of ten years, a bicameral Legislature may abolish its Legislative Council, and that a unicameral Legislature may present an address to the Crown praying for the establishment of a Legislative Council.[1]

Second Chambers suggested for Bombay and Madras.

118. We are of opinion that Legislative Councils should also be established in Bombay and Madras, where the conditions are substantially the same as in Bengal and the United Provinces. Apart from this, we concur in the proposals of the White Paper, subject to certain small changes in the composition of the Legislative Councils in Bengal, the United Provinces, and Bihar; and our recommendations

[1] White Paper, Proposal 74

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for all five Councils are set out in an Appendix to this part of our Report.[1] We think that where, after the ten-year period, a Province with a unicameral Legislature seeks to have a second Chamber, it ought to be allowed to indicate in the Address which it presents to the Crown the size and composition of the Chamber which it desires to have. We do not doubt that the Crown would always endeavour to ascertain the wishes of the Province, but the Constitution Act should make it clear that the Province has the right to inform the Crown what its wishes are.

The Composition of the Legislatures

The Communal Award and the Poona Pact.

119. The White Paper sets out in detail the proposed composition of each Provincial Legislature, specifying both the allocation of seats and the method of election to them.[2] In the case of the Legislative Assemblies, these are based upon the Communal Award issued by His Majesty's Government on August 4th, 1932, with such modifications as have been rendered necessary (1) by the later proposal to create a new Province of Orissa, and (2) by the so-called Poona Pact of September 25th, 1932. It will be recalled that owing to the failure of the various communities to reach any agreement on the subject, principally because of a radical divergence of opinion on the vital question of separate electorates and the distribution of communal seats, His Majesty's Government reluctantly undertook the task of devising themselves a scheme for the composition of the new Legislatures. When their Award was

published, they announced their determination not to entertain any suggestions for its alteration or modification which were not supported by all parties affected, but that if any of the communities mutually agreed upon a practicable alternative scheme, they would be prepared to recommend to Parliament that that alternative should be substituted for the corresponding provisions in the Award In the Award special arrangements were made to secure representation for the Depressed Classes These were criticised by Mr Gandhi as introducing an artificial division between two parts of the Hindu community, and he expressed his intention of fasting unto death as a protest against them Thereupon negotiations were initiated between the representatives of the caste Hindus and of the Depressed Classes and an agreement resulted which was embodied in the Poona Pact This agreement in the view of His Majesty's Government was within the terms of the announcement made by them and therefore properly to be included as an integral part of the Communal Award

Effect of the Poona Pact

120 The substance of the Poona Pact is the reservation to the Depressed Classes of a number of seats out of the seats classified as general seats in the Award which means in effect out of Hindu seats since Hindus form the great bulk of the general electorates These

Ibid.
White Paper, Appendix III

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reserved seats will however be filled by an unusual form of double election All members of the Depressed Classes who are registered on the general electoral roll of certain constituencies will elect a panel of four candidates belonging to their own body and the four persons who receive the highest number of votes in the primary election will be the only candidates for election to the reserved seat, but the candidate finally elected to the reserved seat will be elected by the general electorate that is to say by caste Hindus and by members of the Depressed Classes alike The number of seats reserved for the Depressed Classes under the Poona Pact is practically double the number reserved under the Communal Award but whereas under the latter there was to be a direct election to those seats by a separate Depressed Classes electorate there will now be an election by the general electorate, although the candidate for election will have been previously selected by means of a primary election at which members of the Depressed Classes only will be entitled to vote Since the Pact does not and indeed could not increase the total number of seats assigned by the Communal Award to the different Legislatures, it follows that an increase in the seats reserved for the Depressed Classes must involve a diminution in the seats which will be available for caste Hindus

The White Paper proposals accepted

121 The Communal Award was criticised by more than one witness who appeared before us on the ground that it operates inequitably in the case of Bengal and even more inequitably with the modifications resulting from the Poona Pact There was also criticism of the Award from other Provinces in which the Hindus are in a minority, but elsewhere the Award appears to have met with acceptance and we entertain no doubt that if any attempt were now made to alter or modify it, the consequences would be disastrous The arrangement which it embodies appears to us to be well thought out and balanced, and to disturb any part of it would be to run the risk of upsetting the whole It accepts indeed the

principle of separate electorates for the Muhammadan, Sikh, Indian Christian, Anglo-Indian, and European communities, but we recognize that this is an essential and inevitable condition of any new constitutional scheme. We may deplore the mutual distrust of which the insistence on this demand by the minorities is so ominous a symptom, but it is unhappily a factor in the situation which cannot be left out of account, nor do we think that we can usefully add anything to what we have already said on the subject. We accept therefore the proposals in the White Paper for the composition of the Legislative Assemblies. As regards the Poona Pact, we are satisfied that it was made between persons who may properly be regarded as representative of the caste Hindus on the one hand and of the Depressed Classes on the other, and for that reason we think that it falls within the terms of the announcement made by His Majesty's Government and that it ought not to be disturbed. We

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say frankly that we do not care greatly for it, and still less for the methods which brought it into existence We are of opinion that the original proposals of His Majesty's Government constituted a more equitable settlement of the general communal question; but the Pact was made by accredited leaders of the communities concerned, and was acquiesced in at the time by the communities themselves, or at least elicited no protest; and, if we say no more, it is because we should be reluctant to believe that Indian political leaders, who presumably look forward to occupying positions of responsibility when India achieves self government, will in the future be willing to be influenced by, or to yield to, pressure of the kind which was exerted at Poona two years ago.

Composition of Second Chambers.

122. The Communal Award did not extend to the Legislative Council of any Province The composition of these Councils which is set out in the White Paper is however based upon the same principles as the Communal Award: but, since the Legislative Councils are much smaller bodies than the Legislative Assemblies and it would be impossible therefore to provide in them for the exact equivalent of all the interests represented in the Lower House, it is proposed to include a certain number of nominated seats to be filled by the Governor at his discretion and accordingly available for the purpose of redressing any possible inequality. We think that this is a reasonable arrangement, and we have included provision for it in the detailed recommendations which are set out in the Appendix above referred to.

The Provincial Franchise

The existing franchise.

123 The provincial electorate under the existing franchise numbers approximately 7,000,000 men and women, or about 3 per cent. of the population of British India. It will be recalled that the Southborough Committee in 1919, on whose recommendations the present franchise is based, were of opinion that the time was not ripe for any extension of the franchise to women, but Parliament required the Electoral Rules made under the Government of India Act to be so drawn as to enable the Provincial Councils to pass resolutions admitting women to the franchise on the same terms as men, and resolutions for that purpose have in fact been passed in every Province. But, since the franchise is in the main a property qualification and few Indian women are property owners in their own right, the number of women thus admitted to the franchise was very small and does not at the present time amount to more than about 315,000

The proposals of the Statutory Commission and the Franchise

124 The Statutory Commission were of opinion that the existing franchise was too limited and recommended that it should be extended so as to enfranchise about 10 per cent of the total population, and they laid a special emphasis upon the need for increasing the ratio of women to men voters. In 1932, between the Second and Third Sessions of the Round Table Conference,

a Franchise Committee which was presided over by one of our own number, was appointed by His Majesty's Government for the purpose of examining the whole subject with a view to an increase of the electorate to a figure not less than the 10 per cent of the population suggested by the Statutory Commission nor more than the 25 per cent suggested at the First Session of the Round Table Conference. We are greatly indebted to the admirable and exhaustive Report of the Franchise Committee which reached its conclusions after prolonged and intensive discussions in India with the Provincial Governments and with Provincial Franchise Committees and we are satisfied that their recommendations have met with general support from Indian public opinion expressed not only in India but also at the Third Session of the Round Table Conference, in the evidence of the witnesses who appeared before us and in the discussion which we have had with the British India delegates.

The proposals in the White Paper

125 The proposals of His Majesty's Government for the Provincial Franchise are set out in Appendix V to the White Paper, and are essentially based, with certain modifications of minor importance only, save in respect of the women's franchise, on the Report of the Franchise Committee. We are satisfied that these proposals have the general support of the Government of India and of the Provincial Governments. The basis of the franchise proposed is essentially as at present a property qualification (that is to say, payment of land revenue or of rent in tenancy tenures, or assessment to income tax) supplemented by an educational qualification and by certain special qualifications designed to secure an adequate representation of women and to enfranchise approximately 10 per cent of the Depressed Classes (called in Appendix V Scheduled Castes) by the enfranchisement of retired, pensioned and discharged officers, non-commissioned officers and men of His Majesty's Regular Forces and by the provision of a special electorate for the seats reserved for special interests such as labour, landlords and commerce. The individual qualifications vary according to the circumstances of the different Provinces, but the general effect of the proposal is to enfranchise approximately the same classes and categories of the population in all Provinces alike.

Estimate of numbers of proposed electorate

126 We were warned, and can readily believe, that pending the preparation of Electoral Rolls the figures furnished to us must of necessity be regarded as only approximate. It is however estimated that the proposals in the White Paper would, if adopted, create a male electorate of between 25,000,000 and 30,000,000 and a female electorate of over 6,000,000, as compared with the present figures of 7,000,000 and 315,000; that is to say, 14 per cent of the total population of British India would be enfranchised as compared with the present 3 per cent; and the proposals, therefore, go beyond the percentage suggested by the Statutory Commission and are nearly midway between the maximum and minimum percentages suggested by the First Round Table Conference.

General effect of proposals.

127. We are satisfied on the information before us that the proposals taken as a whole are calculated to produce an electorate representative of the general mass of the population and one which will not deprive any important section of the community of the means of giving expression to its opinions and desires. The proposals will in the case of most Provinces redress the balance between town and country, which is at the present time too heavily weighted in favour of urban areas; they will secure a representation for women, for the Depressed Classes, for industrial labour, and for special interests; and they will enfranchise the great bulk of the small landholders, of the small cultivators, of the urban ratepayers, as well as a substantial section of the poorer classes.

The proposals administratively practicable.

128. The difficulties which must always attach to any great and sudden extension of the franchise, both in connection with the compilation of the electoral roll and in the actual conduct of elections, are mainly administrative in India, because literacy is rare and the number of persons available to act as efficient Returning Officers extremely limited. These are practical obstacles which ardent reformers are sometimes apt to forget; but we are informed that, while the strain of the first election will undoubtedly be considerable, the electorates proposed, subject to certain minor modifications and to one more important modifications which we recommend below in the case of Bihar and Orissa, are accepted by the responsible authorities as administratively practicable. The existing system of election is the direct system, which has been in force since 1920, and appears on the whole to have worked well. The Franchise Committee after an exhaustive investigation of possible alternatives recommended its retention, and they have the support both of the authorities in India and of Indian public opinion. The proposals in the White Paper are accordingly based upon direct election by territorial constituencies in the case of the various communities, special arrangements being made for election in the case of the constituencies which represent special interests. We are informed that His Majesty's Government are not yet in a position to submit their final proposals for the method of election to the seats reserved for women or for the qualifications to be prescribed in the case of certain of the constituencies representing special interests. These matters are still under investigation in India and proposals with regard to them must depend on the result of further expert examination.

Suggestions for group system of election considered.

129. We have carefully examined a suggestion to substitute for direct election in territorial constituencies an indirect system of election by means of local groups. At first sight an arrangement of this nature would appear to have the advantage of widening the basis of the franchise, of giving an equal vote at the primary stage to every adult, of facilitating voting by the primary elector, and of securing a more experienced and intelligent secondary elector; and having regard to these considerations, we felt it our duty, despite the fact

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that discussion and experiment in India had led the Indian Franchise Committee to reject it, again to consider its practicability. The effect of the evidence given before us by witnesses of great experience has however been to show that, superficially attractive as a system of group election may be, the objections to it in existing conditions in India are decisive. We have been especially impressed by the administrative difficulties involved in constituting electoral groups,

given the existence of caste and the reality of the communal problem, and by the argument that faction runs so high in many Indian villages that group elections would inevitably become highly contested and that it would be necessary to provide for them all the machinery of an ordinary election. We were also informed not only that conditions in the villages had changed so materially of late that the circumstances which some six or seven years ago made it justifiable to put forward a proposal for the use of the group system no longer existed, but that there was no real support for the introduction of such a system either from public or from official opinion in India. In the light of our further investigation of this question we are satisfied that in the case of the Provincial Legislatures the balance of advantage clearly lies in present conditions in retaining the system of direct election.

The White Paper proposals approved with certain modifications.

130. We regard the franchise proposals in the White Paper as generally satisfactory, subject to the modifications which we indicate below. In the case of the general franchise, we think that only one modification of substance is necessary. In Bihar and Orissa it is proposed that the qualification in rural areas shall be based upon payment of the chaukidari tax at the minimum rate of six annas per annum, but since the White Paper was laid before Parliament the Provincial Government after further investigation have reported that administrative considerations make it impossible to deal with so large an electorate as this franchise would create. We recommend that, in view of this undoubted difficulty, the rural franchise in Bihar and Orissa should be raised from six annas to nine annas: and we also recommend that in view of the dislocation caused by the recent earthquake, the general rural franchise in the Province should as a temporary measure be fixed as twelve annas for the purpose of the first election under the new Constitution.[1] We recognise that these recommendations, if adopted, will produce in Bihar and Orissa a percentage of enfranchisement much smaller than in any other Province, but we think that they are justified by the special circumstances of the case. We also recommend as part of the arrangements which have been made with His Exalted Highness the Nizam in connection with the Berars, that in the case of Berar constituencies the educational qualification should include the passing of a corresponding examination in Hyderabad and that the military service qualification should cover retired, pensioned or discharged officers, non-commissioned officers or soldiers of His Exalted Highness's regular forces.

[1] Corresponding modifications will be necessary for Sambalpur and Santhal Parganas, for which a special franchise is proposed in the White Paper

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Women's franchise proposals compared with Franchise Committee's recommendations.

131. The present ratio of women to men electors for the Provincial Legislatures is approximately 1 : 20. The recommendations of the Franchise Committee would increase the ratio to 1 : 4 5 by extending the franchise to all women (1) who possess a property qualification in their own right; (2) who are the wives or widows of men with the property qualification for the present Provincial Legislatures (slightly different qualifications are proposed for Bihar and Orissa and for the Central Provinces); and (3) who have an educational qualification of literacy (this last qualification to be registered only on application by the potential voter). These recommendations are estimated to produce a women's electorate of some 6,000,000. The proposals in the White Paper are identical with those of the Franchise Committee, save that women qualified in respect of property held by a husband are required to make application to be

placed on the electoral roll, and that the educational standard has in most cases been substantially raised. We are informed that on the latest estimates available, these proposals would produce a women's electorate of some 6,000,000 as against a male electorate of between 28,000,000 and 29,000,000, a ratio approximately equivalent to that recommended by the Franchise Committee. But of these 6,000,000 only some 2,000,000, that is to say, women qualified to vote in respect of the ownership of property in their own right, would automatically be placed upon the roll; for the remainder, who would be qualified in respect either of property held by a husband or of education, an application to the Returning Officer would be required. We have received very strong representations from representatives of women's organisations and from representative women both in this country and in India that the effect of this proposal would be to prejudice very seriously the position of women under the new Constitution. On the other hand, we are informed that the authorities in India view with apprehension any proposals which would substantially increase the administrative difficulties likely in any event to be caused in polling the new and extended electorates, and they have urged also the importance of giving full weight in connection with the women's franchise to Indian social conditions.

Vital importance of women's franchise.

132. Apart from the difficulties involved in the retention of the "application" requirement, we have received strong representations in favour of the substitution of the literacy qualification (to be registered on application) recommended by the Franchise Committee for the qualification of an educational standard proposed in the White Paper. It has been urged before us that in many Provinces the educational standard proposed in the White Paper is so high that it will seriously prejudice the legitimate claims of women in general, and in particular the woman who has been educated at home. Representations have also been made to us in favour of the extension of the franchise to the wives of men with the military service qualification for the vote and the pensioned widows and mothers of Indian officers, non-commissioned officers and soldiers of the Regular forces.

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We have given anxious consideration to all these questions. We concur in everything which has been said by the Statutory Commission on the necessity for improving the status and extending the influence of the women of India and it is in our opinion impossible to exaggerate the importance of securing in the new Constitution a substantial increase of enfranchised women voters "The women's movement in India" the Commission observe, "holds the key of progress, and the results it may achieve are incalculably great. It is not too much to say that India cannot reach the position to which it aspires in the world until its women play their due part as educated citizens."[1] This is profoundly true and must be realised by every Indian who has the interests of his country at heart. We are only too well aware of the formidable obstacles which every reformer in this field will encounter, and we cannot forget the painful impression made upon us by one witness, claiming (we hope and believe without justification) to represent the great majority of orthodox Hindus, part of whose evidence could only be construed as approving, or at least condoning, the dreadful practice of suttee. We are therefore all the more convinced of the necessity for strengthening the position of women under the new Constitution, and we are not satisfied in the light of the discussions which have taken place that the proposals

in the White Paper are adequate to achieve this object We are particularly impressed by the unfortunate consequences likely to follow from the "application" requirement, though we fully recognise that under existing conditions there are strong arguments in favour of it which can be adduced We sympathise also with the contention that the standard of the educational qualification is too high, and we are wholly in agreement with those who desire to enfranchise the wives of men with the military service qualification for the vote, and the pensioned widows and mothers of Indian officers, non commissioned officers and soldiers of the Regular forces

Modifications in White Paper proposals recommended

133 In these circumstances after a careful examination of the whole problem and in the light of further enquiries which have been made at our request by the Government of India and the local Governments, we recommend the following modifications in the White Paper proposals for the women's franchise and we record our opinion that it should not be beyond the administrative capacity of the Provincial Governments to give effect to them even though they may involve some temporary difficulties in the early days of the new Constitution (1) that the 'application' requirement should be dispensed with in the case of women qualified in respect of a husband's property in Bengal, Bihar and Orissa the Central Provinces and in urban areas in the United Provinces (2) that in Bombay the Central Provinces the United Provinces the Punjab, and Assam a literacy qualification should be substituted as the educational qualification (3) that in Madras Bengal the United Provinces, the Central Provinces the Punjab and Bihar and Orissa the wives of men with the military service qualification for the vote, and pensioned widows and mothers of Indian officers, non commissioned

[1] Report Vol I para 71

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officers and soldiers of the Regular forces should be enfranchised registration in this case being on application only, and (4) that in cases in which registration will still be only on application such steps as are possible should be taken to mitigate the deterrent effect of this requirement on the registration of votes by women, *e g* by permitting application by the husband (subject to suitable penalties in the event of false statements, etc) on behalf of a wife and by the entry of a woman's name as "wife of A B C" in cases in which for social or religious reasons there is any objection to the entry of the actual name on the electoral roll

Recommendations with regard to women's franchise

134 Before leaving this subject we wish to place on record our view that it is important to attain at as early a date as possible, and if practicable before the second election under the new Constitution, the ratio of not less than approximately one woman to five men electors, save possibly in Bihar and Orissa which was recommended by the Indian Franchise Committee We understand that in most Provinces under the proposals embodied in the White Paper, with the modifications proposed by us above, the ratio of women to men eligible to exercise the franchise will be higher than 1 5, but the deterrent effect of the "application" requirement, so long as it is necessary to retain it, particularly in the case of women qualified in respect of a husband's property is likely in practice to produce a much less favourable ratio of women to men on the electoral registers In certain Provinces, moreover, the ratio even of women eligible to vote to men may apparently be less favourable than 1 5. The remedy for this situation is, in our opinion, the withdrawal of the

"application" requirement, at any rate in the case of women qualified in respect of a husband's property, at as early a date as practicable, with a consequent increase in the number of women on the electoral roll. We are in favour also of the lowering of the educational standard for women to literacy in those Provinces in which a higher standard is now proposed not later than the second election under the new Constitution; this should result in the Provinces in question in a further increase in the number of women eligible to exercise the franchise.

The educational qualification for men

135. The Franchise Committee recommended the adoption of the Upper Primary Standard as a general educational qualification for men. The White Paper substitutes a higher standard in certain Provinces. It has been represented to us that the adoption of a high educational qualification and in particular of the matriculation standard would have an unfortunate result on male education and would discriminate against the boy attending the vernacular middle school in favour of the boy matriculating in the secondary school. This question has at our request been further examined by the Government of India and the Provincial Governments; though they admit that there may be some force in the criticism, they do not consider the risk involved is serious enough to call for any modification of the proposal in the White Paper and we do not feel able, after considering the matter, to differ from their conclusion.

Page 6[illegible]

Election expenses and corrupt practices.

136. We desire in conclusion to draw attention to the question of election expenses and corrupt practices. The White Paper proposes that, unless otherwise provided in the Constitution Act itself, the Provincial Legislatures should be empowered to make provision for matters connected with the conduct of elections, but that until they do so certain laws existing, including laws or rules providing for the prohibition and punishment of corrupt practices or election offences, should remain in force. The Statutory Commission observe that they have no wish to over-emphasise, but that they could not disregard the indications given to them in more Provinces than one of the presence and effects of corruption, and they urge therefore that suitable limits should be defined and enforced for election outlay, the existing law being in their opinion inadequate. We think that this is a matter which may properly engage the attention of His Majesty's Government and it may be thought desirable that the Constitution Act itself should embody provisions with regard to it.

Future extension of franchise

137. The question of a future extension of the franchise is one which cannot be divorced from the question of other amendments of the Constitution Act. We do not therefore discuss it in this place and reserve our observations for a later part of our Report, in which the whole problem of what may conveniently be called Constituent Powers is considered.

Powers of Provincial Legislatures

Powers of Provincial Legislatures.

138. We have referred elsewhere to the Lists in Appendix VI of the White Paper, which set out the subjects with respect to which the Provincial Legislatures will have the power of making laws for the peace and good government of the Province, an exclusive power in one case (List II) and in the other a power exercisable concurrently with the Federal Legislature (List III), and further discussion of them is unnecessary here. Certain restrictions on these legislative powers are however proposed. In the first place the Provincial Legislatures

will not be competent to make any law affecting the Sovereign or the Royal Family, the sovereignty or dominion of the Crown over any part of British India, the law of British nationality, the Army, Air Force, and Naval Discipline, Acts, or the Constitution Act itself, save in the last case in so far as the Constitution Act otherwise provide.[3] Few, if any, of these subjects are likely to come within the scope of the legislative powers of the Provincial Legislatures, as defined by Lists II and III, and the restriction is therefore more apparent than real, though we agree that it is a proper one. The Legislatures will also have no power to make certain laws of a discriminatory kind, a subject which it will be more convenient to discuss later.[4] Secondly, the consent of the Governor General, given

[1] Report, Vol. II, para. 110.
[2] *Infra*, paras. 350-377
[3] White Paper Proposals 119-120.
[4] *Infra*, paras. 326 *et seq.*

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at his discretion, will be required to the introduction in a Provincial Legislature of legislation which (1) repeals, amends, or is repugnant to, any Act of Parliament extending to British India or any Governor General's Act or Ordinance, or (2) which affects any Department reserved to the control of the Governor General, or (3) which affects the procedure regulating criminal proceedings against European British subjects. Thirdly, the consent of the Governor, given at his discretion, will be required to the introduction of legislation (1) which repeals, amends, or is repugnant to, a Governor's Act or Ordinance, or (2) which affects religion or religious rites and usages.

The White Paper proposals approved.

139. We have little comment to make upon these proposals. It was indeed suggested to us that the necessity for the Governor's consent to the introduction of legislation affecting religious rites and usages might prejudice attempts to promote valuable social reforms. We do not think that social reform is likely in the least to suffer by its retention, and we are clearly of opinion that it would be unwise for the present to abandon a safeguard which is already in existence and which might prove very necessary at times of religious or communal disturbance. We had also thought at first that a Provincial Legislature ought not to be empowered (as they are not empowered at present) to pass a law which repeals or is repugnant to an Act of Parliament extending to British India, even though the prior consent of the Governor to its introduction in the Legislature might be required. We understand, however, that the great bulk of the existing law in India is the work of Indian legislative bodies and that there are in fact very few Acts of Parliament (apart from those relating to subjects on which it is proposed that the Legislatures shall have no power to legislate at all) which form part of the Indian statute book, and fewer still dealing with matters which will fall within the provincial sphere. In these circumstances we think that the proposal should stand: but the Governor's Instrument of Instructions might perhaps direct him to reserve bills which appear to him to fall within this category.

Governor's assent to Bills

140. The proposals with regard to the Government's assent to Bills are in standard constitutional form.[1] They provide that the Governor may at his discretion either assent to a Bill, or refuse his assent, or may reserve the Bill for the consideration of the Governor-General, who may in his turn either assent or withhold his assent or reserve the Bill for the signification of His Majesty's pleasure. We note a proposal whereby the Governor would be empowered to return a Bill to the Legislature for reconsideration in whole or in part,

together with such amendments, if any, as he may recommend. A provision of this kind (which has Dominion as well as Indian precedent in its favour) may, we think, prove extremely useful for the purpose of avoiding or mitigating a conflict between the Governor or perhaps the Governor and his Ministers, and the Legislature, and will afford opportunities for compromise which would not otherwise be available.

¹ White Paper, Proposal 88.

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Excluded Areas.

141. It is proposed that the powers of a Provincial Legislature shall not extend to any part of the Province which is declared to be an "Excluded Area" or a "Partially Excluded Area." In relation to the former, the Governor will himself direct and control the administration; in the case of the latter he is declared to have a special responsibility. In neither case will any Act of the Provincial Legislature apply to the Area, unless by direction of the Governor given at his discretion, with any exceptions or modifications which he may think fit The Governor will also be empowered at his discretion to make regulations having the force of law for the peace and good government of any Excluded or Partially Excluded Area, but subject in this case to the prior consent of the Governor General. We have already expressed our approval of the principle of Excluded Areas, and we accept the above proposals as both necessary and reasonable [1]

Procedure in the Legislatures

Ordinary procedure.

142. The proposals in the White Paper are rightly designed to give a Provincial Legislature ample power to regulate its own procedure and business; but we note with approval that the Governor is to be empowered at his discretion, after consultation with the presiding officer of the Legislature, to make rules regulating procedure and the conduct of business in relation to matters arising out of or affecting, any of his special responsibilities, and that any rules made by him for this purpose will prevail over any rule made by the Legislature itself which may conflict or be inconsistent with them.[2]

Financial procedure.

143. The proposals with regard to financial procedure seem to us generally to be well considered. They are based upon the principle, which must always be the foundation of any sound system of public finance, that no proposal can be made for the imposition of taxation, for the appropriation of, or affecting or imposing any charge upon, public revenues without the recommendation of the Governor; that is to say, it can only be made on the responsibility of the Executive.[3] We understand that, apart from this, legislative procedure in matters of finance differs in India from that which exists in the United Kingdom. There is, for example, no annual Appropriation Act in India, the proposals for the appropriation of revenue being submitted to the Legislature in the form only of Demands for Grants, and a resolution of the Legislature approving a Demand is sufficient legal warrant for the appropriation. No substantial alteration in this system is suggested in the White Paper, and, though we have given some consideration to the matter, we are satisfied that no good reason has been shown for modifying in the new Constitution Act a system with which Indians are familiar and which appears to have worked sufficiently well in practice.

¹ White Paper, Proposal 108.
² White Paper, Proposal 102.
³ White Paper, Proposal 95.

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Annual proposals for appropriation of revenue.

144. The proposals for the annual appropriation of revenue will, according to the White Paper, be grouped in three categories[1]: (1) those which will not be submitted to the vote of the Legislature though, (with one exception) they will be open to discussion; (2) those which will be so submitted; and (3) proposals, if any, which the Governor may regard as necessary for the fulfilment of any of his special responsibilities. The importance of those which fall into the first category makes it desirable that we should set them out in full, and they are as follows:—

(i) Interest, Sinking Fund Charges and other expenditure relating to the raising, service, and management of loans, expenditure fixed by or under the Constitution Act; expenditure required to satisfy a decree of any Court or an arbitral award;

(ii) The salary and allowances of the Governor (these will not be open to discussion); of Ministers; and of the Governor's personal or secretarial staff.

(iii) The salaries and pensions, including pensions payable to their dependents, the Judges of the High Court or Chief Court or Judicial Commissioners, and expenditure certified by the Governor, after consultation with his Ministers, as required for the expenses of those Courts;

(iv) Expenditure debitable to Provincial revenues required for the discharge of the duties imposed by the Constitution Act on the Secretary of State;

(v) The salaries and pensions payable to, or to the dependents of, certain members of the Public Services and certain other sums payable to such persons.

Non-votable heads of expenditure

145. It will be observed that most of these Heads of Expenditure are identical with, or analogous to, payments which would in the United Kingdom be described as Consolidated Fund charges and as such would not be voted annually by Parliament. The two principal exceptions are the salaries of Ministers and the salaries and pensions payable to certain members of the Public Services or to their dependents. We think the inclusion of Ministers' salaries is justified. The convention in this country whereby a motion for a nominal reduction in the salary of a Minister has become a convenient method of criticising a Department or ventilating grievances appears not to have established itself in India. On the contrary, Legislatures have been known to mis-use their powers in such a way as to deprive Ministers of the whole of their salaries, and have thus rendered it impossible for the Governor to have not only the Ministry of his choice but any Ministry at all, a notable example of the way in which the exercise of its powers by a Legislature may by constitutional usage be made to serve a valuable purpose in one country and yet prove wholly destructive in another. We therefore

[1] White Paper, Proposals 95-100.

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approve the proposal in the White Paper, and we are of opinion that ample, and no less convenient, opportunities for criticizing the Executive will still remain. The non-votable character of salaries and pensions payable to members of the Public Services raises questions of a different kind, which we propose to consider later.[1] The separate specification of the proposals regarded by the Governor as necessary for the fulfilment of his special responsibilities calls for no comment.

System of Demands for Grants.

146. All proposals for appropriation, other than those relating to the heads of expenditure enumerated above, will be submitted to the Legislature in the form of Demands for Grants, and the Legislature will have the right to assent to, or reduce, or to refuse assent to, any Demand including those which the Governor has proposed as necessary for the fulfilment of his special responsibilities. Except in the latter case (the Governor being empowered to restore any such Grants, if he thinks it desirable to do so), the decision of the Legislature is final; and it is this power in the matter of supply which will give the Legislature its real control over the Executive. We have already discussed the difficulties which may arise if that power is factiously or irresponsibly exercised, and it is not necessary to repeat what we then said. It has been objected that the Heads of Expenditure which will not be subject to the vote of, but only open to discussion by, the Legislature are so extensive as materially to diminish the field of responsible government in the Province. We are satisfied that there is little, if any, substance in this objection. Most of the Heads of Expenditure, as we have pointed out, would not, even in the United Kingdom, be the subject of an annual vote by Parliament; and the inclusion of those which do not fall within that category is for reasons which we have given elsewhere clearly justified as a matter of reasonable precaution, if responsible government itself is to be a reality in the future.

Powers of Legislative Councils and conflicts between the two Chambers.

147. It is proposed that, in those Provinces where the Legislature is bicameral, Money Bills shall be initiated in, and Demands for Grants submitted to, the Legislative Assembly alone.[2] We think that this is right, and that the Legislative Council should not be regarded in any sense as a body having equal powers with the Legislative Assembly, but rather a body with powers of revision and delay, for the purpose of exercising a check upon hasty and ill-considered legislation. Nevertheless, the possibility of a conflict between the two Chambers cannot be disregarded. The method proposed by the White Paper for resolving such a conflict is to give the Governor the power, after a lapse of three months, to summon the two Chambers to meet in a Joint Session for the purpose of reaching a decision on any legislation which has been passed by one Chamber but rejected by the other, the Bill being taken to have been duly passed by both

[1] *Infra*, paras. 269 *et seq.*
[2] White Paper, Proposal 91.

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Chambers if approved by a majority of the members voting at the Joint Session. We do not think that this is a satisfactory solution. The period of three months is too short, and would make the powers of the Legislative Council derisory; it ought in our opinion to be one of twelve months at least, except in the case of a Money Bill, the delay of which even for three months might obviously have mischievous consequences. It may be urged that the sessions of the Provincial Legislatures will be comparatively short and that it is never likely in practice that the period of delay will be only three months; but we regard the difference as one of principle. The case of a Bill on which in the Governor's opinion a decision cannot, consistently with the fulfilment of his special responsibilities, be deferred is on a different footing; and we agree that in this case the Governor must himself be empowered to summon forthwith a Joint Session. It seems to us also that, in view of the relative powers of the two Chambers, a Bill introduced in the Legislative Council but rejected by the Legislative Assembly should lapse, and that the machinery of a Joint Session should be confined to the converse case, and

should be put in motion only if the Legislative Assembly so desires. There should be no possibility of further amendment in the Joint Session save for amendments relevant to the points of difference which have arisen between the two Chambers, and the decision of the Presiding Officer, who will presumably be the President of the Upper Chamber, on the admissibility of any amendment should be final and conclusive.

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APPENDIX (I)

Composition of Provincial Legislative Councils

		Bengal	Bihar	Bombay	Madras	United Provinces.
Nominated by the Governor in his discretion —						
Not less than		6	3	3	6	6
Not more than		8	4	4	8	8
General	Directly elected	10	9	20	18	34
Muhammadan	Directly elected	17	4	5	4	17
European	Directly elected	3	1	1	1	1
Indian Christians	Directly elected	—	—	—	2	—
Elected by the method of the single transferable vote by members of the Provincial Lower House		27	12	--	23	--
Total—						
Not less than		63	29	29	54	58
Not more than		65	30	30	56	60

The members directly elected will be elected from communal constituencies.

The franchise will be based on high property qualifications, combined with a qualification based on service in certain distinguished public offices, as is proposed in Appendix V, Part II, of the White Paper.

The qualifications above indicated will also apply to candidates, but special provisions may be necessary in the case of women and the Depressed Classes.

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II.—THE FEDERATION

Federation and the Crown

Federal Union of States and Provinces.

148. We pass now to the proposal in the White Paper to create a new polity in which both the British India Provinces and the Indian States will be federally united. On the principle of the proposal we can entertain no doubts, but this will be a Federation of a kind for which, so far as we are aware, no historical precedent is to be found. Federations, whether in the past or at the present day, have commonly resulted from the union of independent, or at least autonomous, States, which have agreed to come together for the purpose of creating a new central organism deriving its powers and authority from the surrender by the federating units of a defined part of their own sovereignty or autonomy, the powers and authority thus derived being thenceforward exercised by the new organism in the interests and on behalf of the whole body. The Indian States possess sovereignty in varying degrees, but at the present moment the Indian Provinces are not even autonomous; for they are subject to both the administrative and legislative control of the Government of India and such authority as they exercise has only

been devolved upon them under a statutory rule-making power by the Governor-General in Council. It is therefore the first condition precedent of a federal scheme that these Provinces should be endowed with an autonomy and individuality of their own; but since it is proposed that the Act which brings this about should at the same time create a potential Federation, the new central organism cannot be derived from any formal agreement between the Provinces and the States, but must come into existence by new and hitherto unknown methods. It must be created, with the aid of Parliament, through the instrumentality of the Crown.

Existing distribution of authority in British India.

149. The dominion and authority of the Crown extends over the whole of British India and is exercised subject to the conditions prescribed by the existing Government of India Act. It is derived from many sources, in part statutory and in part prerogative, the former having their origin in Acts of Parliament, and the latter in rights based upon conquest, cession or usage, some of which have been directly acquired, while others are enjoyed by the Crown as successor to the rights of the East India Company. The Secretary of State is the Crown's responsible agent for the exercise of all authority vested in the Crown in relation to the affairs of India, and for the exercise also of certain authority which he derives directly from powers formerly vested in the Court of Directors and the Court of Proprietors of the East India Company, whether with or without the sanction of the body once known as the Board of Control. The superintendence, direction and control of the civil

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and military Government of India is declared by the Government of India Act to be vested in the Governor-General in Council, and the government or administration of the Governors' and Chief Commissioners' Provinces respectively in the local governments; but powers of superintendence, direction and control over "all acts, operations and concerns which relate to the government or revenue of India" are, subject to substantial relaxation in the transferred provincial field, expressly reserved to the Secretary of State; and whether the Governor-General in Council exercises (though no doubt under the general control of the Secretary of State) original powers of his own, or is only the agent and mouthpiece of the Secretary of State, remains perhaps an open question. It is one which has been the subject of dispute in the past between Secretaries of State and the Governor-General; but the spheres of their respective jurisdictions are now well recognised, and the Secretary of State, though maintaining his powers of control, does not in practice exercise any powers of direct administration, a result to which the increasing authority of the Indian Legislature has no doubt materially contributed.

Legal basis of new Federal Constitution.

150. It is clear that in any new Constitution in which autonomous Provinces and Indian States are to be federally united under the Crown, not only can the Provinces no longer derive their powers and authority from devolution by the Central Government, but the Central Government cannot continue to be an agent of the Secretary of State. Both must derive their powers and authority from a direct grant by the Crown. We apprehend, therefore, that the legal basis of a reconstituted Government of India must be, first, the resumption into the hands of the Crown of all rights, authority and jurisdiction in and over the territories of British India, whether they are at present vested in the Secretary of State, the Governor-General in Council, or in the provincial Governments and Administrations; and

second, their redistribution in such manner as the Act may prescribe between the Central Government on the one hand and the Provinces on the other. A Federation of which the British India Provinces are the constituent units will thereby be brought into existence; but since the rights, authority and jurisdiction which will be exercised on behalf of the Crown by the Central Government do not extend to any Indian State unless the Ruler has agreed to their exercise for federal purposes in relation to his State, it follows that the accession of an Indian State to the Federation cannot take place otherwise than by the voluntary act of its Ruler. The Constitution Act cannot itself make any Indian State a member of the Federation; it will only prescribe a method whereby the State may accede and the legal consequences which will flow from the accession. There can be no question of compulsion so far as the States are concerned. Their Rulers can enter or not enter the Federation as they think fit. They have announced their willingness to consider federation with the Provinces of British India on certain terms,

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but whereas the powers of the new Central Government in relation to the Provinces will cover a wide field and will be identical in the case of each Province, the Princes have intimated that they are not prepared to agree to the exercise by a Federal Government for the purpose of the Federation of a similar range of powers in relation to themselves. This is a further aspect of the matter which differentiates the proposed Federation from any other; for not only will some of the constituent units be States whose subjects will continue to owe allegiance to their own Rulers modified only within the federal sphere, but the powers and authority of the Central Government will differ as between one constituent unit and another.

Proposed scheme a practicable one.

151. The above is in broad outline the scheme adopted in the White Paper[1] and it seems to us the only method by which such a Federation could be created. We have already said that there are no precedents to which recourse might be had for guidance, though the recent devolution of certain powers of the Spanish Republic, hitherto a completely unitary State, on the new autonomous Province of Catalonia perhaps affords a partial and limited analogy; but we know of no Federation with constituent units which occupy a position similar to that of any Indian State acceding to the Indian Federation. The latter will be unique in character among the Federations of the world; but though for that reason difficulties and complexities are inevitable in the scheme proposed, we regard it as neither unnatural nor impracticable. It will undoubtedly demand for its successful working goodwill on both sides; but that is a postulate of every Federation, and our enquiry gives us no reason to suppose that good will will be wanting.

Rulers Instruments of Accession

152. It is proposed that the Ruler of a State shall signify to the Crown his willingness to accede to the Federation by executing an Instrument of Accession; and this Instrument (whatever form it may take) will, we assume, enable the powers and jurisdiction of the Ruler in respect of those matters which he has agreed to recognise as federal subjects to be exercised by the federal authorities brought into existence by the Constitution Act, that is to say, the Governor-General, the Federal Legislature and the Federal Court, but strictly within the limits defined by the Instrument of Accession. Outside these limits the autonomy of the States and their relation with the Crown will not be affected in any way by the Constitution Act. The list of exclusively federal subjects is set out in List I of Appendix VI to the White Paper, to which we have already drawn attention,

and we understand the hope of His Majesty's Government to be that Rulers who accede will in general be willing to accept items 1 to 48 of List I as federal subjects. We have indicated our view that the Lists in Appendix VI require some modification, a matter with which we deal hereafter and, therefore, though we speak of

[1] White Paper Proposal 1
[2] White Paper Proposals 3

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items 1 to 48, we do not wish to be understood as necessarily implying that we accept all these items as appropriately falling within the federal sphere, so far as regards the Indian States, or that we think that the definition of some of them is not susceptible of improvement. Subject to this it is convenient to consider the questions which arise in connection with the Instrument of Accession on the basis of the White Paper proposals with the explanations which have been given to us on behalf of His Majesty's Government.

150. It would, we think, be very desirable that the Instruments of Accession should in all cases be in the same form, though we recognise that the list of subjects accepted by the Ruler as federal may not be identical in the case of every State. Questions may arise hereafter whether the Federal Government or the Federal Legislature were competent in relation to a particular State to do certain things or to make certain laws, and the Federal Court may be called upon to pronounce upon them; and it would in our opinion be very unfortunate if the Court found itself compelled in any case to base its decision upon some expression or phraseology peculiar to the Instrument under review and not found in other Instruments. Next, we think that the lists of subjects accepted as federal by Rulers willing to accede to the Federation ought to differ from one another as little as possible, and that a Ruler who desires in his own case to except, or to reserve, subjects which appear in what we may perhaps describe as the standard list of federal subjects in relation to the States ought to be invited to justify the exception or reservation, before his accession is accepted by the Crown. We do not doubt that there are States which will be able to make out a good case for the exception or reservation of certain subjects, some by reason of existing treaty rights, others because they have long enjoyed special privileges (as for example in connection with postal arrangements, and even currency or coinage) in matters which will henceforward be the concern of the Federation; but in our judgment it is important that deviations from the standard list should be regarded in all cases as exceptional and not be admitted as of course. We do not need to say that the accession of all States to the Federation will be welcome, but there can be no obligation on the Crown to accept an accession, where the exceptions or reservations sought to be made by the Ruler are such as to make the accession illusory or merely colourable. Instruments should, so far as possible, follow a standard form.

151. We regard the States as an essential element in an All-India Federation, but a Federation which comprised the Provinces and only an insignificant number of the States would scarcely be deserving of the name. This is recognised in the White Paper, where it is proposed that the Federation shall be brought into existence by the issue of a Proclamation by His Majesty, but that no such Proclamation shall be issued until the Rulers of States representing not less than half the aggregate population of the States and entitled to not less than half the seats to be allotted to the States in the Accession of sufficient number of States a condition precedent to Federation.

Federal Upper Chamber have signified to His Majesty their desire to accede to the Federation.[1] We accept the principle of this proposal We observe also that it is proposed that both Houses of Parliament should first present an Address to His Majesty praying that the Proclamation may be issued We approve this proposal, because Parliament has a right to satisfy itself not only that the prescribed number of States have in fact signified their desire to accede, but also that the financial, economic, and political conditions necessary for the successful establishment of the Federation upon a sound and stable basis have been fulfilled This is a matter which we discuss more fully in a subsequent part of our Report, and it is unnecessary to do more than allude to it here [2] We note also in passing that the establishment of autonomy in the Provinces is likely to precede the establishment of the Federation, but in our judgment it is desirable, if not essential, that the same Act should lay down a constitution for both, in order to make clear the full intention of Parliament

Differentiation of functions of Governor-General and Viceroy.

155. We have spoken above of the rights, authority and jurisdiction of the Crown in and over the territories of British India But the Crown also possesses rights, authority and jurisdiction elsewhere in India, including those rights which are comprehended under the name of paramountcy All these are at present exercised on behalf of the Crown, under the general control of the Secretary of State, by the Governor General in Council and it will be necessary that they should also be resumed in their entirety into the hands of the Crown. But clearly they cannot under the new Constitution be exercised on behalf of the Crown by any federal authority, save in so far as they fall within the federal sphere, and only then when they affect a State which has acceded to the Federation The White Paper proposes that (subject to the exception which we have mentioned) they should in future be exercised by the representative of the Crown in his capacity as Viceroy, and that, in order to put the distinction beyond doubt, the office of Governor General should be severed from that of Viceroy [3] We agree with what we conceive to be the principle underlying this proposal, but we are not clear that the method employed to give effect to it is entirely appropriate We agree that there must be a legal differentiation of functions in the future; and it may well be that His Majesty will be pleased to constitute two separate offices for this purpose. But we assume that for many years to come, if not always, the two offices will continue to be held by the same person, and, so long as this is so, we think that the title of Viceroy should attach to him in his double capacity; we do not presume to suggest a designation for the separate office whose incumbent will represent the Crown in its relations with the States outside the Federal sphere But the suggestion which we have made

[1] White Paper, Proposal 4.
[2] *Infra*, para 266
[3] White Paper, Introd , para. 10.

involves no departure from the underlying principle of the White Paper that outside the Federal sphere the States relations will be exclusively with the Crown and that the right to tender advice to the Crown in this regard will lie with His Majesty's Government.

The Area of Federal Jurisdiction

Area of Federation.

156. The area of federal jurisdiction will extend in the first instance to the whole of British India, which comprises at the present time the Governors' Provinces and the Chief Commissioners' Provinces of British Baluchistan, Delhi, Ajmer-Merwara, Coorg, the Andaman and Nicobar Islands, and Aden.[1] We give below our reasons for holding that Aden should henceforth cease to be part of British India. As regards the States which have acceded to the Federation, the federal jurisdiction will extend to them only in respect of those matters which the Ruler of the State has agreed in his Instrument of Accession to accept as federal.

Aden.

157. The Settlement of Aden which comprises the town of Aden itself and certain immediately adjacent districts is at present administered by the Government of India as a Chief Commissioner's Province. Responsibility for the hinterland of Aden, which is commonly known as the Aden Protectorate and which is not British territory, has since 1917 rested with His Majesty's Government, who have also since the same date been responsible for the military and political affairs of the Settlement. Under arrangements reached in 1926, an annual contribution, subject to a maximum of £150,000, but which amounts at the moment only to some £120,000, is made from Indian revenues to military and political expenditure on the Settlement and the Protectorate. The population of the Settlement is predominantly Arab, the Indian population, which is however of great commercial importance, numbering only about one seventh of the whole.

Effect of constitutional proposals.

158. Proposals for Indian constitutional reform inevitably necessitated consideration of the future position of Aden, and in particular of the question whether the Settlement could satisfactorily be included in the new arrangements, or whether it would not be preferable to transfer responsibility for its civil administration to His Majesty's Government, in whom military and political responsibility for the Settlement and complete responsibility for the affairs of the hinterland already vests. We have received strong representations against any alteration in the status of Aden from important and influential Indian interests. On the other hand we have received representations in favour of transfer from the Arab population who appear to view with some apprehension the possibility that Aden may permanently remain a part of British India.

[1] White Paper, Proposals 5, 56-60.

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Its separation from British India recommended.

159. We recognise the natural reluctance of Indian public opinion to sever a connection of almost a century's standing with an area the development of which is largely due to Indian enterprise and where much Indian capital is engaged. But great importance must also be attached to the interests and the feelings of the Arab majority of the population of the Settlement. We are impressed apart from this by the geographical remoteness of Aden from India, by the difficulties of merging it satisfactorily in a new Indian Federation; by the impracticability of a complete divorce between the civil administration of the Settlement on the one hand and political and military control of the Settlement and Protectorate on the other; and by the anomaly of including in such new constitutional arrangements as may be approved for India an area predominantly Arab in population, already to some extent under Imperial control, and in practice inseparable from the Aden Protectorate for which India has ceased to be in any way responsible.

The constitutionally anomalous position which would arise in regard to Defence, if the present arrangements were allowed to continue under the new constitution, would be particularly marked. We are, moreover, inclined to see some force in the argument that it is desirable on general grounds, given the importance of Aden from a strategic standpoint to the Empire in the East as a whole, and not merely to any individual unit, that its control should vest in the Home Government. After full consideration we are of opinion that the administration of the Settlement of Aden should be transferred from the Government of India to His Majesty's Government not later than the date of the establishment of Federation. In reaching this conclusion we have not ignored the apprehensions expressed by Indian interests connected with Aden as to the possible prejudicial effect of a transfer upon their position. We have, however, ascertained that His Majesty's Government are prepared in the event of transfer not merely to relieve India of her annual financial contribution, but to preserve a right of appeal in judicial cases to the Bombay High Court; to maintain (in the absence of any radical change in present economic circumstances) the existing policy of making Aden a free port; to leave nothing undone to keep the administration at its present standard; and to impose no additional taxation unless in their opinion such a course is quite inevitable. They are further prepared to agree that a proportion of Indian Service personnel shall be retained for some years after the date of transfer; that no racial discrimination shall be permitted: and that British Indian subjects shall be allowed to enter the Protectorate under precisely the same conditions as any other British subjects. These assurances ought, in our view, adequately to meet the apprehensions to which we have referred above.

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III.—RESPONSIBILITY AT THE CENTRE

The Federal Centre.

160 We come lastly to the proposals in the White Paper which relate to the Federal Government and Legislature.[1] Much that we have said in connection with the Provinces applies equally to the Centre, but there are special problems connected with the latter for which there neither is nor can be any provincial counterpart. The Federal Government will be the point of contact between the Provinces and the Indian States which accede to the Federation; it will be the connecting link between all the constituent units as such, and there must exist at the Centre a residuary and ultimate responsibility for the peace and tranquillity of the whole of India. The authority and functions of the Governor-General as the representative of the Crown assume in all these spheres a particular importance, especially in relation to Defence and External Affairs; and in connexion with the latter subjects the problems associated with a dyarchical system have to be examined. We propose to consider, first, the Federal Executive and the Federal Legislature and the relations between the two; and, secondly, the relations between the Federation and its constituent units, that is, the Provinces and those Indian States which have become members of the Federation.

(1) The Federal Executive

The present Executive in India.

161. The present executive authority in India, both in civil and in military matters, is the Governor-General in Council. The members of the Governor-General's Executive Council, of whom not less than three must be persons who have been for at least ten years in the

service of the Crown in India, are appointed by the Crown, and their appointments are in practice for a term of five years, though there is no statutory limit. The Commander-in-Chief is ordinarily, though not necessarily, a member of the Council, and in that case has rank and precedence next after the Governor-General himself. The present Council consists of six members (of whom three are Indians), in addition to the Governor-General and the Commander-in-Chief. The Governor-General presides at meetings of his Council, and the decision of the majority of those present prevails, though the Governor-General has a casting vote in the event of an equality of votes, and may, if any measure is proposed which in his judgment affects the safety, tranquillity or interests of British India, or any part thereof, over-rule the Council. The three members of the Council who are required to have been in the service of the Crown in India are invariably selected from the Indian Civil Service; the post of Law Member has for some years past been filled by an Indian lawyer, and that of Finance Member by a person with financial experience from the

[1] White Paper, Proposals 6—55.

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United Kingdom. An official is not qualified for election as a member of either Chamber of the Central Legislature, and if any non-official member of either Chamber accepts office under the Crown in India his seat is vacated; but every member of the Governor-General's Council becomes an ex-officio member of one of the Chambers and has the right of attending and addressing the other, though he cannot be a member of both. The Executive Government is not responsible to the Indian Legislature, but only to the Secretary of State and thus to Parliament; and the Governor-General in Council, if satisfied that any demand for supply which has been refused by the Legislative Assembly is essential to the discharge of his responsibilities, can act as if it had been assented to, notwithstanding the refusal of the demand or any reduction in its amount by the Legislative Assembly. The Governor-General himself has also power in case of emergency to authorise such expenditure as may in his opinion be necessary for the safety or tranquillity of British India, or any part thereof. These provisions secure the complete independence of the Executive, though the Legislature can and does exercise an influence upon policy in a marked and increasing degree.

Executive power and authority of Federation to be vested in Governor-General.

162 The White Paper proposes that, as in the case of the Governor in a Province, the executive power and authority of the Federation shall vest in the Governor-General as the representative of the King.[1] This power and authority will be derived from the Constitution Act itself, but the Governor-General will also exercise such prerogative powers of the Crown (not being powers inconsistent with the Act) as His Majesty may be pleased to delegate to him. The former is to include the supreme command of the military, naval and air forces in India, but it is proposed that power should be reserved to His Majesty to appoint a Commander-in-Chief to exercise in relation to those forces such powers and functions as may be assigned to him. In relation to a State which is a member of the Federation the executive authority will only extend to such matters as the Ruler has accepted as falling within the federal sphere by his Instrument of Accession. It is then proposed that there shall be a Council of Ministers,[2] chosen and summoned by the Governor-General and holding office during his pleasure, to aid and advise him in the exercise of the powers conferred on him by the Constitution Act other than his powers relating to (1) defence, external affairs and ecclesiastical affairs, (2) the administration of British Baluchistan,

and (3) matters left by the Act to the Governor-General's discretion.[3] In respect of certain specified matters the Governor-General, like the Governor of a Province, is declared to have a "special responsibility"; and his Instrument of Instructions will direct him to be guided by the advice of his Ministers in the sphere in which they have the constitutional right to tender it, unless in his opinion one of his

[1] White Paper, Proposal 6.
[2] White Paper, Proposal 13.
[3] White Paper, Proposals 5, 11 and 13.

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special responsibilities is involved, in which case he will be at liberty to act in such manner as he judges requisite for the fulfilment of that special responsibility, even though this may be contrary to the advice which his Ministers have tendered.[1]

Introduction of responsible government

163. It will be seen that the White Paper proposals are the same (*mutatis mutandis*) for the Federal, as they are for the Provincial, Executive. It is not therefore necessary for us to repeat what we have already said on the subject, and especially on the importance which will attach to the Governor-General's Instrument of Instructions. The Instrument will direct him to appoint as his Ministers those persons who will best be in a position collectively to command the confidence of the Legislature;[2] and this direction, taken in conjunction with the proposals which we have set out, is, as we have said elsewhere, the correct constitutional method of bringing into existence a system of responsible government. We observe that Ministers are to advise the Governor-General in the exercise of the powers conferred on him by the Constitution Act (other than powers relating to the subjects which we have mentioned above); and we assume therefore that they will not be entitled to advise him in the exercise of any prerogative powers of the Crown which may be delegated to him, presumably in the Letters Patent constituting the office. We are of opinion that this is a proper distinction to draw; and that Ministers should not, for example, have the right to advise on the exercise of such a prerogative of His Majesty as the grant of honours, if His Majesty should be pleased to delegate a limited power for that purpose. There is no interference here with the principle of responsible government, for it is not proposed that His Majesty should be empowered to delegate any powers which are inconsistent with the Act.

Special questions in connection with the Federal Executive

164. We pass to a consideration of some special questions which arise in connection with the Federal Executive, and they may conveniently be discussed under the following heads:—

(i) The nature of the Governor-General's special responsibilities;
(ii) the Governor-General's selection of Ministers;
(iii) the Reserved Departments;
(iv) the Governor-General and the Federal Administration;
(v) the special powers of the Governor General.

(i) *Nature of the Governor General's Special Responsibilities*

The Governor-General's "special responsibilities."

165. The White Paper defines the matters in respect of which the Governor-General is declared to have a special responsibility in the following terms:—(*a*) the prevention of any grave menace to the peace or tranquillity of India, or any part thereof; (*b*) the safeguarding of the financial stability and credit of the Federation;

[1] White Paper, Proposal 21.
[2] White Paper, Proposal 14.

(*c*) the safeguarding of the legitimate interests of minorities; (*d*) the securing to the members of Public Services of any rights provided for them by the Constitution Act and the safeguarding of their legitimate interests; (*e*) the prevention of commercial discrimination; (*f*) the protection of the rights of any Indian State; (*g*) any matter which affects the administration of any department under the direction and control of the Governor-General.

Responsibility for peace and tranquillity of India.

166 All that we have said on (*a*) in relation to the Governor of a Province applies with equal, if not greater, force in the case of the Governor-General, and we have little to add to it. The Governor-General, as the authority in whom the exclusive responsibility for the defence of India is vested, must necessarily be free to act, according to his own judgment, where the peace or tranquillity of India, or any part of India, is threatened, even if he finds himself thereby compelled to dissent from the advice tendered to him by his Ministers within their own sphere, but, since we assume that his Ministers will have equally at heart the preservation of peace and tranquillity, we hope that we may assume that differences of opinion between them and the Governor General on this subject will seldom, if ever, arise.

Responsibility for safeguarding financial stability and credit of the Federation.

167. Federal Ministers will under the White Paper proposals become responsible for finance but (to quote the Second Report of the Federal Structure Committee of 13th January, 1931) it is recognised to be "a fundamental condition of the success of the new Constitution that no room should be left for doubts as to the ability of India to maintain her financial stability and credit, both at home and abroad,' and that it is therefore necessary "to reserve to the Governor General in regard to budgetary arrangements and borrowing such essential powers as would enable him to intervene if methods were being pursued which would in his opinion seriously prejudice the credit of India in the money markets of the world." To this we might add that the grave responsibilities which attach to the Governor-General in the matter of defence afford a further and no less cogent reason In our opinion, though the expression "budgetary arrangements and borrowing" indicates generally the sphere in which it is desirable that the Governor General should have power, if necessary, to act, it would be unwise to attempt to define this special responsibility in more precise terms than are proposed in the White Paper Any further directions for the guidance of the Governor General would find a more appropriate place in his Instrument of Instructions, as indeed the Joint Memorandum of the British Indian Delegation suggests. The White Paper also proposes, rightly in our opinion, that the Governor-General should be empowered in his discretion, but after consultation with his Ministers, to appoint a financial adviser to assist him in the discharge of this special responsibility.[1] The British Indian Delegation concur, provided it is made clear that

[1] White Paper, Proposal 17

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the financial adviser is not intended to interfere in the day to day administration of financial business; and they suggest indeed that it would be an advantage if he were designated the adviser to the Ministry as a whole as well as to the Governor-General. We think that he must be regarded technically as the Governor-General's adviser, but his advice ought to be available to Ministers and we hope that they will freely consult him.' We have no doubt that the

Governor-General will always endeavour to secure the appointment of a person acceptable to his Ministers; for since we may assume that he will be a person selected not only by reason of his financial qualifications but also for his tact and commonsense, the value of his services would in our judgment be no less diminished if he held himself aloof from Ministers than if he sought to interfere in matters outside his proper functions. We think that such an adviser, if the right selection is made, may prove of the greatest assistance both to the Governor-General and to Ministers, and that the more successful he is in the performance of the duties attaching to his office, the less likelihood will there be of exercise by the Governor-General of any of his special powers.

Responsibility for protecting the rights of Indian States.

168. We have nothing to add to what we have already said with regard to the special responsibilities specified under (*c*), (*d*) and (*e*). As regards (*f*), "the protection of the rights of any Indian State," we have already expressed the view that this special responsibility only applies where there is a conflict between rights arising under the Constitution Act and those enjoyed by a State outside the federal sphere. It may be necessary for the Governor-General to deal with such a conflict not only in his capacity as the executive head of the Federation but also in his capacity as the representative of the Crown in its relations with the States; but his special responsibility must necessarily arise in the first capacity only. The responsibility specified in (*g*) calls for no comment, since it is plain that the Governor-General must be free to exercise his own judgment in any matter which affects the administration of any of the reserved departments, even though it arises primarily within the ministerial sphere.

(ii) *The Governor-General's Selection of Ministers*

Selection of Ministers.

169. [As in the case of the Provinces, it is proposed that federal Ministers must be, or become within a stated period, members of one or other Chamber of the Legislature.[1] We have expressed the opinion that the Governor of a Province ought not to be thus restricted in his choice of Ministers, and we think that in principle the choice of the Governor-General ought similarly to be unrestricted. The reasons which led us to the above conclusion in regard to the Provinces do not however apply with the same force, and we have no doubt that it would be very rarely, if at all, that the Governor-General would find it necessary or desirable to appoint Ministers who are not

[1] White Paper, Proposal 13.

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members of the Legislature or unlikely to become members within the prescribed period. Since also it is proposed that there shall be a small element nominated by the Governor-General in the Upper Chamber of the Legislature, the question is even less likely to arise in practice: but we think nevertheless that no distinction should be made in this particular respect between the Federation and the Provinces.]

(iii) *The Reserved Departments*

The Reserved Departments and the Governor-General's Counsellors.

170. The White Paper proposes that the Governor-General shall himself direct and control the administration of the Departments of Defence, External Affairs and Ecclesiastical Affairs;[1] these matters will therefore remain outside the ministerial sphere, and the Governor-General's responsibility with respect to them will be to the Secretary of State and thus ultimately to Parliament. The Governor-General could not, it is plain, undertake in person so great

an administrative burden, and it is therefore proposed that he should be assisted by not more than three Counsellors who will be appointed by him and whose salaries and conditions of service will be prescribed by order in Council[2] Since also it is necessary that the Governor-General should have a spokesman in the Legislature on matters connected with the Reserved Departments, each Counsellor will be ex officio an additional member of both Chambers of the Legislature for all purposes, though without the right to vote, and we assume that there will be no restriction on his right to take part in any of the debates in the Legislature if he desires to do so

Defence

171 The Department of Defence is a cardinal Department, for it is responsible for the defence of India in all its aspects, whether concerned with internal security or with protection from foreign invasion The s[illegible] and impressive chapter on the Army in India which forms part of the Statutory Commission's survey makes it unnecessary for us to discuss in any detail the difficulties and complexities of this vital subject in its relation to India, and we do not desire either to add to or qualify their presentation of the problem[3] Their investigation led them indeed to a conclusion which differs, in its constitutional aspect, from our own, but on the facts of the matter we find ourselves in complete agreement with them

The Statutory Commission on the Army in India.

White [illegible] proposed that the Governor-General [illegible] British [illegible] White Paper [illegible] will be [illegible] Ministers will not advise the Governor-General in relation to its administration

White Paper Proposal [illegible]

[3] Report Vol I paras [illegible]

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172 The Commission, convinced that dyarchy in the Central Government was wholly inadmissible inquired whether any other plan was feasible which would provide adequately for the needs of Indian defence and offer at the same time an earlier prospect for further constitutional advance and they suggested as the only possible answer that the protection of the Indian frontiers should not, at any rate for a long time to come, be regarded as a function of an Indian Government in relation with an Indian Legislature, but as a responsibility to be assumed by the Imperial Government[1] This plan has not, we think, found advocates even among those who would be prepared to assent generally to the recommendation of the Commission and it seems to us to avoid the difficulties of one kind of dyarchy by creating what is in substance, if not in form, another. We are unwilling for reasons which we have already given that the problem of defence should for ever bar the way to any form of responsibility at the Centre, and we are prepared to accept the risks which we recognise to be implicit in a dyarchical system, but it is an essential condition of the experiment that in the sphere of defence the Governor-General's responsibility should remain undivided and unimpaired and that the Department of Defence should be under his exclusive direction and control It should be remembered also that it is through this agency that the obligation will be discharged which the Crown has assumed for the protection, whether externally or internally, of the States Responsible British India opinion does not deny the necessity for the reservation, though the

The Commission's recommendation.

Joint Memorandum of the British-India Delegations seeks to add certain qualifications, to which we shall refer later; and we proceed therefore to a consideration of some of the more important questions which it involves.

Relations between Department of Defence and other Departments.

173. No department of Government can be completely self-contained, and a Department of Defence is no exception to the rule. Its administration does not indeed normally impinge upon the work of other Departments, save in time of war or other grave emergency; but its policy and plans may be greatly influenced by theirs, and by the knowledge that it is able to rely upon their co-operation at moments of crisis. It is vital, therefore, that where defence policy is concerned the Department should be able to secure that its views prevail in the event of a difference of opinion. The special responsibility which it is proposed that the Governor-General shall have in respect of any matter affecting the administration of the Departments under his direct control will enable him in the last resort to secure that action is not taken in the ministerial sphere which might conflict with defence policy, and he will also be able to avail himself of the power which the Federal Government will possess to give directions as to the manner in which the executive authority in the Provinces is to be exercised in relation to any matter affecting the administration of a federal subject, since Defence is none the less a

[1] Report Vol II, paras 195 215

federal subject because reserved. Thus the maintenance of communications, especially on mobilisation, is a vital military necessity, and the Governor-General must have power in case of need to issue directions to the Railway Authority, or to require the Minister in charge of communications to take such action as the Governor-General may deem advisable. In the provincial sphere questions may arise with regard to the control of lands, buildings or equipment maintained or required by the Department, or with regard to such matters as facilities for manœuvres or the efficiency and well-being of defence personnel stationed in provincial areas. In all matters of this kind where there is a difference of opinion with other authorities. the final responsibility for a decision, if defence policy is concerned, must rest with the Governor-General and his views must prevail.

Co-operation essential

174. It may be assumed that in practice the willing co operation of the other departments of Government—Federal or Provincial—will render unnecessary any recourse to these special powers; and we should view with dismay the prospects of any new Constitution, if the relations between the ministerial and the reserved Departments were conducted in an atmosphere of jealousy or antagonism. The influence of the Governor-General will no doubt always be exerted to secure co ordination and harmony; but it may well be that some permanent co-ordinating machinery will be desirable. The British-India Joint Memorandum suggests a statutory Committee of Indian Defence which in other respects would be modelled on the Committee of Imperial Defence; but we are not sure that its authors fully appreciate the position and functions of the latter, since it is not a statutory body and its value is perhaps increased by that very fact. We are disposed to think that a body with statutory powers and duties might embarrass the Governor-General and even be tempted to encroach upon his functions. A consultative body established at the Governor-General's discretion would not be open to that criticism and might, we think, have many advantages

Suggestions of British-India Delegation.

175. The Joint Memorandum observes that, since the Governor-General in Council exercises superintendence, direction and control over the military as well as the civil government in India, the reservation of the Department of Defence to the Governor General will have the effect of depriving Ministers of the influence over Army policy which at the present time Indian Members of the Governor-General's Council are able to exert. It urges therefore (1) that the Governor-General's Counsellor in charge of the Department of Defence should always be a non-official Indian, and preferably an elected member of the Legislature or a representative of one of the States; (2) that the control now exercised by the Finance Member and the Finance Department should be continued; and (3) that all questions relating to army policy and the annual army budget should be considered by the entire Ministry, including both Ministers and Counsellors; though it is admitted that in cases of difference the decision of the Governor General must prevail. As to the first point

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we do not think that the Governor-General's choice ought to be fettered in any way, and he must be free to select the man best fitted in his opinion for the post. As to the second, we understand that the Military Finance and the Military Accounts Departments are at the present time subordinate to the Finance Department of the Government of India, and not to the Army Department. It seems to us a necessary corollary of the reservation of defence that both of them should be brought under the Department of Defence, since the responsibility for the expenditure which they supervise can only be that of the Governor-General. But the transfer would not preclude an arrangement whereby the Federal Department of Finance is kept in close touch with the work of both these branches and we do not doubt that some such arrangement ought to be made. As to the third point, we observe a proposal in the White Paper that the Governor-General's Instrument of Instructions should direct him to consult the Federal Ministers before the army budget is laid before the Legislature;[1] and so long as nothing is done to blur the responsibility of the Governor-General it seems to us not only desirable in principle, but inevitable in practice, that the Federal Ministry, and in particular, the Finance Minister, should be brought into consultation before the proposals for defence expenditure are finally settled.

Indianization.

176. We pass to the vexed question of Indianization The Governor-General's Instrument of Instructions will, we understand, formally recognise the fact that the defence of India must to an increasing extent be the concern of the Indian people, and not of the United Kingdom alone.[2] With this general proposition we are in entire agreement, and we have every sympathy with what the Statutory Commission rightly call the natural and legitimate aspirations of India. But Indianization is a problem which admits of no facile solution, and least of all one based upon the automatic application of a time table; and if we should seem to emphasize its difficulties, it is because we are anxious that Indian political leaders should be realists in this matter, and not because it is either our desire or our intention to derogate from or to evade the pledges which have been given by successive Governments in this country.

The practical difficulties.

177. It is sometimes said that so long as the officer ranks of the Indian Army are not fully Indianized complete self-government must be indefinitely deferred. We do not regard that view as self-evident; and indeed the problem of Indianization does not appear to us to be essentially related to the constitutional issues with which we are

concerned. Since however it has been brought before us, we think it wise to repeat the conclusions of the Statutory Commission that "the issues involved are too vital, and the practical difficulties too great, to justify a precipitate embarkation on a wholesale process of substituting Indian for British personnel in the Indian Army."[3]

[1] White Paper, Introd., para. 23.
[2] *Ibid.*
[3] Report, Vol. II, para. 196.

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A further difficulty arises from the difference (in a military sense) between the martial and the other races of India. We are well aware that this difference is alleged to have no existence in fact or at least to have been exaggerated for political purposes; but no unprejudiced person can deny that it is there, and that it is beyond the power of Parliament to alter it. There are some things which even an Act of Parliament cannot do. It is subdued to what it works in, and spiritual values are beyond its scope, and something more than a section in a statute is required to eliminate racial differences or to breathe life into the elements which go to the making of a national army. Parliament can provide the conditions in which the creation of a homogeneous Indian nation may become possible; but the act of creation must be the work of Indian hands.

Further development of Indianization necessary, but a time-limit impracticable.

178. We think it right to mention these things because of the suggestion put forward in the British India Joint Memorandum that there should be a definite programme of Indianization with reference to a time limit of 20 or 25 years, and that one of the primary duties of an Indian Army Counsellor should be the provision and training of Indian officers for the programme of Indianization. It is in our judgment impossible to include in the Constitution Act or in any other statute a provision for the complete Indianization of the Army within a specified period of time. The scheme introduced in 1931 provides for the Indianization of the equivalent of one Cavalry Brigade and one Infantry Division complete with all arms and ancillary services; and we are assured that it has been initiated by the military authorities in India with the fullest sense of their responsibility in the matter and that further developments will depend upon the success of the experiment. If the experiment succeeds, the process will be extended and developed, and Indians can rely on all the sympathy and assistance which we are able to give them for the purpose of creating an army of their own. We endorse the measured words of the Statutory Commission: "Neither British politician or Indian politician can wisely decide such matters without special knowledge and expert advice. We are only concerned here to convey a double warning—a warning on the one hand that Britain cannot indefinitely treat the present military organization of India as sacrosanct and unalterable, but must make an active endeavour to search for such adjustments as might be possible; and a warning on the other hand that Indian statesmen can help to modify the existing arrangement in the direction of self-government only if they too will co-operate by facing the hard facts and by remembering that those who set them out for further consideration are not gloating over obstacles, but are offering the help of friends to Indian aspirations."[1]

Rights of Defence personnel, etc.

179. It will be more convenient to consider certain questions which have been raised in connection with the rights of Defence personnel in that part of our Report in which we deal with the rights of the

[1] Report, Vol. I, para. 126.

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Services generally. The question of the future recruitment for the Indian Medical Service, which has an important military bearing, is discussed in the same place, and it is unnecessary therefore to do more than mention it here.

180. The White Paper proposals have been thought to contemplate the possible abolition of the office of Commander-in-Chief in India. We do not so read them and we are assured that no such intention is in the mind of His Majesty's Government. The Commander in Chief

External Affairs

181. The Department of External Affairs is in our opinion rightly reserved to the Governor-General, if only because of the intimate connection between foreign policy and defence. At the present time the Foreign Department, of which the Governor-General himself holds the portfolio, is only concerned with the relations between the Government of India on the one hand and foreign countries on the other, and not with the relations between the Government of India and the Dominions; and we are informed that the expression External Affairs is not intended to include the latter, a decision with which we concur. It was urged before us that the making of commercial or trade agreements with foreign countries was essentially a matter for which the future Minister for Commerce should be responsible rather than the Governor-General. In the United Kingdom, however, all agreements with foreign countries are made through the Foreign Office. Any other arrangement would lead to grave inconvenience; but when a trade or commercial agreement is negotiated the Foreign Office consult and co-operate with the Board of Trade, whose officials necessarily take part in any discussion which precede the agreement. We assume that a similar arrangement will be adopted in India, and that the Department of External Affairs will maintain a close contact with the Department of Trade or Commerce; but we are clear that agreements of any kind with a foreign country must be made by the Governor-General, even if on the merits of a trade or commercial issue he is guided by the advice of the appropriate Minister. External affairs

Ecclesiastical Affairs

182. The origin of the Ecclesiastical Department is to be found in the obligation imposed by the Charters of the East India Company to provide chaplains on their ships and at their stations; and since 1858, when the rights and obligations of the East India Company finally passed to the Crown, the Government of India have rightly regarded it as their duty to provide for the spiritual needs of British troops stationed in India and, so far as circumstances admit, of the European members of the Civil Service. The Secretary of State in Council has under his general powers established and maintained for this purpose a cadre of official chaplains appointed by himself and Ecclesiastical affairs

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has authorised grants in aid out of Indian revenues for the maintenance of churches and of a certain number of non official chaplains, the present annual expenditure of the Department being approximately 40 lakhs. Since the Indian Church Act, 1927, and the Indian Church Measure of the same year, by virtue of which the Church in India became an autonomous body, Indian Bishops are no longer appointed by the Crown.

Limit for future ecclesiastical expenditure suggested.

183 Under the proposals in the White Paper the powers of the Secretary of State will pass to the Federal Government, but will be exercised under the personal direction of the Governor General, subject (as in the case of the other Reserved Departments) to the general control of the Secretary of State. It is clear that any sudden or unreasonable curtailment of Government assistance might gravely embarrass the new autonomous Indian Church, but obviously the latter must in course of time come to depend less and less upon Government assistance, whether in the form of the provision of official chaplains or of grants in aid for the maintenance of non-official chaplains or churches, and we understand that the policy of the Government of India is gradually to reduce ecclesiastical expenditure with the ultimate intention of restricting it to provision for the spiritual needs of British troops and within reasonable limits of the civil official population. The expenditure of the Department will not therefore rise above the present figure and may fall below it as time goes on. We approve the arrangement proposed, but we think that in the circumstances the Constitution Act should specify a maximum figure above which the annual appropriation for ecclesiastical expenditure cannot go. It appears that the whole of the expenditure in respect of official chaplains is now classified as civil expenditure, although a large proportion of the maintained churches and the services of over 90 per cent. of the official chaplains at present employed minister primarily to the spiritual needs of the Army, and it is a matter for consideration whether ecclesiastical expenditure for Army purposes should not be under the control of the Department of Defence. We understand that this question is now under examination by the Government of India.

(ix) *The Governor General and the Federal Administration*

Ministers and Counsellors.

184 We do not think it necessary to repeat the observations which we have already made on this subject in connexion with the Provinces, for they are equally applicable to the relations between the Governor General and the Federal Administration. But the existence of the Reserved Departments and the Governor General's Counsellors introduces an additional factor. The Federal Government will be a dyarchical and not a unitary, government, the Governor General's Ministers having the constitutional right to tender advice to him on the administration of a part only of the affairs of the Federation,

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while the administration of the other part remains the exclusive responsibility of the Governor General himself. In these circumstances it is clear that the Governor General's Counsellors, who will be responsible to the Governor General alone and will share none of the responsibility of the Federal Ministers to the Federal Legislature, cannot be members of the Council of Ministers. It has indeed been suggested that, for the purpose of securing a greater unity in the Government, the Counsellors ought to form part of the Ministry, entering and leaving office with them, whatever the political complexion of the Ministry may be. An artificial arrangement of this kind, completely divorced from the realities of the situation, is in our opinion quite inadmissible. The Counsellors could not by a simulated resignation diminish their responsibility to the Governor-General, nor would the Government become any more unitary than it was before. It is no doubt true that legal fictions which mask a change of substance by preserving the outward form have

often proved a valuable aid to constitutional development; but a fiction whereby the form but not the substance is altered can serve no useful purpose. We hope nevertheless that the Counsellors, even if they cannot share the responsibility of Ministers, will be freely admitted to their deliberations. It would indeed be difficult, if not impossible, to conduct the administration of the Department of Defence in complete aloofness from other departments of government, and the maintenance of close and friendly relations with Departments under the control of Ministers can only increase its efficiency. We understand the intention of His Majesty's Government to be that the principle of joint deliberation shall be recognised and encouraged by the Governor General's Instrument of Instructions. We warmly approve the principle, and we think that it will prove a valuable addition to the machinery of government without derogating in any way from the personal responsibility of the Governor General for the administration of the Reserved Departments.

Misapprehensions as to position and functions of Counsellors

185. We recognise the difficulty which necessarily attaches to a dyarchical system, and that for its successful working, tact and sympathy of no common order will be required on both sides. The White Paper states that the proposals which it contains "proceed on the basic assumption that every endeavour will be made by those responsible for working the Constitution to approach the administrative problems which will present themselves in the spirit of partners in a common enterprise."[1] If this assumption proves, as we hope, to be well founded, many difficulties will disappear. Some at least of them appear to arise from a misunderstanding of the White Paper. Thus we were informed that though the normal number of the Governor General's Counsellors would probably be two, it was thought advisable to take power to appoint a third in case of need; but according to the Joint Memorandum of the British India Delegation, fears have been expressed in India that, if a third Counsellor is appointed and "is

[1] White Paper, Intrd. para. 26

placed in charge of the special responsibilities of the Governor General," he may develop into what is described as "a super Minister, whose activities must necessarily take the form of interference with the work of the responsible Ministers." It is impossible to forecast with any accuracy the volume of work involved in the Governor General's administrative responsibilities, and it may well be that the appointment of a third Counsellor will be found necessary; but, if we may respectfully say so, the notion that there is a danger of his becoming a "super Minister" seems to us altogether fantastic. To speak of a Counsellor being "placed in charge of the special responsibilities of the Governor General" is wholly to misapprehend the conception of the special responsibilities embodied in the White Paper, which do not set apart a governmental or departmental sphere of action from which Ministers are excluded, or even one in which the Governor General has concurrent powers with his Ministers. We do not, as we have said elsewhere, anticipate that the occasions on which the Governor General or a Governor will find himself compelled in the discharge of his special responsibilities to dissent from ministerial advice tendered to him are likely to be numerous; and the Governor General and his Counsellors, even if the latter had the power, will not have such ample leisure at their disposal as to be tempted to utilise it for the purpose of interfering with the day to day administration business of Ministers.

The Governor-General's staff.

186. The Governor-General, even more than the provincial Governors, will require an adequate staff with an officer of high standing at its head. Whether one of the Counsellors will fill this position it is unnecessary for us to consider, for the question is administrative rather than constitutional; but it is of exceptional importance that the Governor-General should be well served and we do not doubt that this matter has engaged, and will continue to engage, the earnest attention of His Majesty's Government.

(v) *The Governor-General's Special Powers*

Special powers.

187. The special powers, legislative and financial, of the Governor-General as described in the White Paper do not differ (*mutatis mutandis*) from those which it is proposed to give to the Governor of a Province. It is therefore sufficient to refer to what we have already said upon the subject in an earlier part of this Report, and we have nothing to add to it here.

(2) Relations between the Federal Executive and Legislature

Difficulties created by composite nature of Executive and Legislature;

188. We have considered in an earlier part of our Report the problem of the relations between the Executive and the Legislature of a Province; and when we examine the relations between the Federal Executive and Legislature, it is plain that many of the same questions arise. But a further complication is introduced into the Federal Executive, for it is proposed that the Governor-General should, in

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selecting the Ministers who are likely to command the confidence of the Legislature, include "so far as possible" not only members of important minority communities but also representatives of the States which accede to the Federation.[1] We have already stated our opinion that the acceptance of this principle, inevitable though we recognise it to be, is likely to retard the growth of political parties in the true sense; and it is perhaps even more likely to do so at the Centre than in the Provinces, since we can scarcely doubt that State representation will always be regarded by the States themselves as a necessary and essential element in every administration. The Federal Legislature, though intended to be representative of India as a whole, will itself be largely based upon a system of communal representation; and in these circumstances we do not overlook the possibility that in place of an Executive which propounds, and a Legislature which deliberates upon, a national policy, there may be found two bodies each tending to become, in a classic phrase, "a congress of ambassadors from different and hostile interests, which interests each must maintain as an advocate and agent against other agents and advocates."

and by dyarchy.

189. The proposed dyarchical character of the Government augments, or at least does not diminish, the complexities of the situation. It is unnecessary to repeat all that the Statutory Commission have said on the working of dyarchy in the Provinces; but we may usefully quote one passage from their Report: "The practical difficulty in the way of achieving the objective of dyarchy and of obtaining a clear demarcation of responsibility arises not so much in the inner counsels of government as in the eyes of the Legislature, the electorate and the public. Provincial Legislatures were by the nature of the Constitution set the difficult task of discharging two different functions at the same time. In the one sphere, they were to exercise control over policy; in the other, while free to criticise and vote or withhold supply, they were to have no responsibility.

The inherent difficulty of keeping this distinction in mind has been intensified by the circumstances under which the Councils have worked to such an extent that perhaps the most important feature of the working of dyarchy in the Provincial Councils when looked at from the constitutional aspect, is the marked tendency of the Councils to regard the Government as a whole, to think of Ministers as on a footing not very different from that of Executive Councillors, to forget the extent of the opportunities of the Legislatures on the transferred side and to magnify their functions in the reserved field."[1] To this we may add the Commission's references to the importance (not always, we think, fully realised) of the part played by the official bloc in making the present system workable by the assurance which it has given to the responsible Ministers of at least one body of supporters on whom they could always rely. There

[1] [illegible]
[illegible]

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is no Province, the Commission say, in which the official bloc has not at some time or other been of decisive value to Ministers, and in some Provinces there has never at any time been a sufficiently large or cohesive ministerial party to enable Ministers to ignore the assistance of their official supporters.[1] These facts have had an important influence on the working of the actual constitution.

100. The difficulties to which we have drawn attention are no doubt formidable and we do not seek to minimise them, but we are far from regarding them as fatal. As regards the composition of the Executive, [illegible] that few if any Federations [illegible] practice found it possible to constitute an Executive into which [illegible] representatives [illegible]. The Swiss Constitution, by providing that not more than one member of the Federal Council may be chosen from the same canton, secures the direct representation at any one time of at least seven cantons, and we doubt whether a Canadian or an Australian Prime Minister or a German Chancellor [illegible] ever formed a Ministry in which [illegible] representation [illegible]. It will be said that [illegible] Canada and Australia the different elements in the Ministry are selected primarily because they are members of the majority party in the Legislature and only secondarily because they represent other interests which a Prime Minister cannot afford to neglect. This is no doubt true, and we do not seek to push the analogy too far, but we think that the formation of all Federal Executives will always be found to involve considerations which happily for himself the Prime Minister of a unitary Government can leave altogether out of account. Next, it is to be observed that the functions of the Federal Executive under the White Paper scheme are necessarily more limited in scope than under the existing constitution, and relate essentially to matters of all India interest. Tariffs, currency and transport are national, not communal questions, and it is not unreasonable to assume that any clash of interest with regard to them will tend in future to have an economic rather than a communal origin. There will therefore be centripetal as well as centrifugal forces, and it seems to us indeed conceivable that until the advent of a new and hitherto unknown alignment of parties a central Executive such as we have described may even come to function, as we believe that the Executive of the Swiss Confederation functions, as a kind of business committee of the Legislature.

Defence the crucial question.

191. Of the difficulties presented by the system of dyarchy we desire to speak frankly. We do not doubt that in what the Statutory Commission call "the inner counsels of government" they can readily be solved; and the moderating and unifying influence which the Governor General, both as the head of the Executive and as representative in India of the Crown, will be in a position to exercise

[1] Report, Vol I, para. 229.

must always be a powerful factor. But "the task of discharging two different functions at the same time" may prove no less difficult for the Federal, than it has been for a Provincial, Legislature, and a great responsibility will rest upon the Federal Legislature, if the scheme is to prove workable in practice, without (as we hope) the intervention of the Governor General or recourse to any of his special powers. In the reserved sphere the Legislature will have the power to criticize, but not to thwart, the Executive; to influence, but not to determine, policy; and since in this sphere Defence is infinitely the most important subject, the crucial question is whether the Legislature will be prepared, where Defence is concerned, to adopt a responsible and not an irresponsible attitude. We cannot deny that it may be tempted (in the phrase of the Statutory Commission) "to magnify its functions in the reserved field." The military budget and the progress of Indianization are matters on which strong views are held and it is not to be supposed that under a dyarchical system they will cease to be of interest to legislators. But it is upon the clear demarcation of responsibility that the White Paper scheme depends, and we must state as emphatically as we can that its maintenance is one of the essential conditions of responsible government at the Centre.

Influence of the Indian States.

192. It will be said that the practical working of dyarchy in the Provinces as it has been depicted by the Statutory Commission is scarcely a recommendation for its introduction at the Centre, and that the Governor General's Counsellors in any conflict with the Legislature may find themselves in a difficult position without the support of an official bloc. We do not dispute the force of this argument, but we have given reasons elsewhere for holding that the administrative difficulties of dyarchy at the Centre are not comparable with those which it has presented in the Provinces, where the inter-relation of the two branches of the government makes it impossible in practice to divide the administration of provincial business into mutually exclusive compartments. The same District Officer may, for example, have to give effect to directions from a Minister and an Executive Councillor, each in his own sphere; but the Governor-General's Reserved Departments are administratively separate and self contained, and we are satisfied that the practical difficulties which have been experienced in the Provinces are far less likely to arise. Secondly we repeat that our recommendation in favour of responsibility at the Centre is conditional on the accession to the Federation of the Indian States. In all matters relating to Defence their interest is a powerful and reassuring factor. Dyarchy could not for many years to come be an adequate solution of the problem of defence with an exclusively British India Centre. With the accession of the Indian States it becomes at once an all-India problem, and the presence in the Federal Legislature of representatives of the States will afford a guarantee, if any be required, that these grave matters will be weighed and considered with a full appreciation of the issues at stake.

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Responsibility at the Centre and the interests of the masses.

193. We draw attention in conclusion to an argument which has been frequently urged, that the grant of responsible government at the Centre is likely to be prejudicial to the interests of the masses of India. We are unable to appreciate the force of this argument when it is used, as it commonly is, by those who are willing to concede responsible government to an autonomous Province. A cursory glance at the list of subjects which comprise the exclusively provincial field will show that the activities of government which most closely affect the interests of the masses fall within the provincial sphere. It is true that there are also subjects in the federal field which might touch those interests. Some of these relate to social matters in which, for reasons which we have already given, measures of reform seem to us beyond the power of any but a responsible Indian Government to undertake. Of the others, tariffs are perhaps the most important; but in our opinion it may well prove that the interests of the consumer will be more fully weighed and safeguarded than they have sometimes been in the past by a Legislature in which agricultural interests will be strongly reinforced by the representatives of the Indian States.

(3) The Federal Legislature

Composition of, and election to, the Legislature

Difficulty of the subject.

194. There is no part of the subject of our enquiry which has seemed to us to present greater difficulties than the question of the method of election to a Central Legislature for India. It is one on which there has always been a marked difference of opinion; and we recall that the Joint Select Committee which considered the Government of India Bill in 1919 did not accept the recommendations of the Southborough Committee which had been embodied in the Bill, and that there is a similar divergence between the recommendations of the Statutory Commission and the proposals in the White Paper. In these circumstances our task has been an anxious one, and we have only arrived at our conclusions after a careful and prolonged examination of the matter in all its aspects.

Composition of Council of State and Federal House Assembly proposed in White Paper.

195. The White Paper proposes that the Federal Legislature shall consist of the King, represented by the Governor-General, and two Chambers, to be styled the Council of State and the House of Assembly. The Council of State is to consist of not more than 260 members, of whom 150 will be representatives of British India, not more than 100 will be appointed by the Rulers of States who accede to the Federation, and not more than 10 will be nominated by the Governor-General in his discretion. The Governor-General's Counsellors, who will be ex-officio members of both Chambers for all purposes except the right of voting, are not included in the above figures; and it is provided that the members to be nominated by the Governor-General shall not be officials. The House of Assembly will consist of not more than 375 members, of whom 250

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will be representatives of British India, and not more than 125 will be appointed by the Rulers of States who have acceded to the Federation.[1]

Method of election to Council of State.

196. The representatives of British India in the Council of State will to the number of 136 be elected by the members of the Provincial Legislatures, by the method of the single transferable vote. Indian Christian, Anglo-Indian and European members of the Provincial Legislatures will not be entitled to vote for these representatives,

but 10 non-provincial communal seats will be reserved for them (7 for Europeans, 2 for Indian Christians and one for Anglo-Indians), these seats being filled by three electoral colleges, consisting respectively of the European, Indian Christian and Anglo-Indian members of the Provincial Legislatures, and voting for the European and Indian Christian seats being by the method of the single transferable vote. Coorg, Ajmer, Delhi and Baluchistan will each have one representative. Members of the Coorg Legislature will elect to the Coorg seat, but special provision is to be made in the case of the other three[2]

Method of election to the House of Assembly.

197 The representatives of British India in the House of Assembly will be elected by direct election in provincial constituencies, except in the case of three of the seats reserved for Commerce and Industry, and one of the labour seats, where the constituencies will be non provincial Election to the seats, allotted to the Muhammadan, Sikh, Indian Christian, Anglo Indian and European constituencies will be by voters voting in separate communal electorates; and all qualified voters who are not voters in one of these constituencies will be entitled to vote in a general constituency Election to the seats reserved for the Depressed Classes out of the general seats, will be in accordance with the arrangements embodied in the Poona Pact, which we have described elsewhere Election to the woman's seat in each of the Provinces to which such a seat is allocated will be by members of the Provincial Legislature voting by the method of single transferable vote, the special seats assigned to Commerce and Industry will be filled by election by Chambers of Commerce and other similar associations; and the special seats assigned to landowners will be filled by election in special landholders' constituencies[3]

The precedent of other Federations.

198 The proposals in the White Paper thus follow other Federal Constitutions in adopting direct election for the Lower House We are then confronted with the question whether, in spite of precedents, such a system is appropriate in the case of so vast a country as India, and whether circumstances do not require the substitution of some method of indirect election, and, if so, what that method ought to be

[1] White Paper, Proposals 22 37

[2] White Paper, Appendix I

[3] White Paper, Appendix II

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Direct or indirect election.

199 Direct election has the support of Indian opinion and is strongly advocated by the British India Delegation in their Joint Memorandum It has been the system in India for the last twelve years, and has worked on the whole reasonably well, though, it should be remembered, with a much more limited franchise than that now proposed The Southborough Committee which visited India in 1919 for the purpose of settling the composition of, and the method of election to the Legislatures set up by the Government of India Bill of that year, did, it is true, recommend the indirect system but the Joint Select Committee which examined the Bill were of a contrary view, and Parliament accepted the opinion of the Committee It may also be argued that, with the increase in the size of the Legislatures now proposed, it will be possible to effect so appreciable a reduction in the size of the existing constituencies as to diminish the objections based on that feature of the present system. But even the reduction in the size of constituencies which would follow from the White Paper proposals will still leave them unwieldy and unmanageable, unless the number of seats is increased

beyond all reasonable limits. Where a single constituency may be greater in extent than the whole of Wales, a candidate for election could not in any event commend or even present his views to the whole body of electors, even if the means of communication were not, as in India, difficult and often non existent, and quite apart from obstacles presented by differences in language and a widespread illiteracy; nor could a member after election hope to guide or inform opinion in his constituency. These difficulties would be serious enough with the comparatively limited franchise proposed in the White Paper; but future extensions of that franchise would be inevitable, and it is obvious that with every increase in the electorate these difficulties are enhanced.

Essentials of representative government.

200 A close and intimate contact between a representative and his constituency is of the essence of representative government, so that the former may be conscious of a genuine responsibility to those whom he represents, and the latter that they are able to influence his actions and in case of need call him to account. The relationship has been described in a passage familiar to all: "It ought to be the happiness and glory of a representative to live in the strictest union, the closest correspondence, and the most unreserved communication with his constituents; their wishes ought to have great weight with him, their opinion high respect, and their business his unremitted attention", but we confess that we can recognize no likeness to this description in any relations which could exist between a member of the Central Legislature in India and the vast constituencies which he would represent under a system of direct election.

Indirect election recommended.

201 We realise the strength of Indian opinion in this matter, and we are far from denying that the present system has produced legislators of high quality; but we are now recommending to Parliament the establishment of self government in India and we

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regard it as fundamental that the system of election to the Central Legislature should be such as to make the responsibility of a member to those who elect him a real and effective responsibility. We do not think that this can be secured under a system of direct election proposed in the White Paper, and, though we are conscious that we are reversing the decision made by Parliament in 1919, we have come to the conclusion, notwithstanding the theoretical objections which can be urged against it, that there is no alternative to the adoption of some form of indirect election.

Election to Federal House of Assembly by Provincial Assemblies.

202 We have examined many systems of indirect election. Systems based upon electoral groups at first sight have many attractions, but we have felt bound to reject them for reasons similar to those which we have already given in that part of our Report which deals with the provincial franchise.[1] We have also considered election by municipal and other local bodies, which was a prominent feature of the Morley-Minto Constitution; but we are satisfied that the system did not work well, and that there is no justification for an attempt to revive it. We have come to the conclusion that the Provincial Assemblies form the only possible electoral colleges, and we recommend accordingly that the Federal House of Assembly should be, in the main, elected by members of those bodies. We should have been glad if it had been possible to provide for election by the method of single transferable vote, since this would have avoided the necessity of reproducing at the Centre the system of a communal distribution of seats. We however found ourselves unable to recommend this; firstly, because the special interests

such as commerce, industry, landlords and labour, would not obtain adequate representation: and secondly, because, though the single transferable vote would in all probability make it possible for the communities to obtain substantially the same representation as under the White Paper proposal, the minority communities would regard it with suspicion, and we think it essential that nothing should be done which would afford opportunities for reopening the communal question. We accordingly recommend that the Hindu, Muhammadan, and Sikh seats should be filled by the representatives of those communities in the Provincial Assemblies voting separately for a prescribed number of communal seats; and that within the Hindu group special arrangements should be made for the Depressed Classes. With regard to the Indian Christians and Europeans, their representation[1] in the Provincial Assemblies is so small that this plan would not be suitable, and we think, therefore, that it will be necessary that they should vote in an electoral college formed by their representatives in all the Provincial Assemblies.

The Council of State.

203. The White Paper proposes that the members of the Council of State should be elected by the members of the Provincial Legislatures, including members of the Provincial Upper Chambers where

[1] *Supra*, para 129.

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the Legislature is bicameral. The method of election proposed is that of the single transferable vote, a communal distribution of seats being thereby avoided; but special arrangements are contemplated for Europeans, Anglo Indians and Indian Christians, which would not otherwise be in a position to secure adequate representation. No provision is made for representation in the Council of State of special interests. We accept these proposals in principle, but if, as we recommend, the Provincial Assemblies are to elect to the Federal House Assembly it will clearly be necessary to find different electoral colleges for the Council of State. It seems to us that the only alternative electoral college is the Provincial Legislative Council in those Provinces where a Legislative Council exists; and in the unicameral Provinces we recommend that an *ad hoc* electoral college should be constituted of persons elected by an electorate broadly corresponding to the electorate for the Legislative Councils in bicameral Provinces, the communal distribution of seats in this electoral college corresponding to that in the Provincial Assemblies

Council of State should be constituted on more permanent basis.

204. The White Paper proposes that each Council of State shall continue for seven years and each Federal House of Assembly for five years, power being reserved to the Governor-General in his discretion to dissolve both Houses, either separately or simultaneously. We prefer a Council of State constituted on a more permanent basis, and accordingly recommend that it should not be subject to dissolution, that its members should be elected for a period of nine years, and that one-third should retire and be replaced at the end of every third year (special arrangements would in that event be required for the first nine-year period following on its first constitution).

Size of the two Federal Houses.

205. The numbers proposed in the White Paper for the two Federal Houses have been the subject of criticism, and we see many advantages in Houses of a smaller size, especially in view of the proposals to which we refer hereafter for Joint Sessions of both Houses. We are however convinced, after a careful examination of the whole question, that the balance of convenience is against

any reduction of the numbers proposed in the White Paper. In the first place, the size of the Houses will regulate the number of seats available for the representation of the Princes, and unless this representation is generally acceptable to the Princes, as a whole, they may be unwilling to federate and the first condition precedent to the establishment of the Federation would not be fulfilled. Certain of the larger States have, it is true, expressed a preference for substantially smaller Houses, but we are satisfied, that the general body of States would be unwilling to accept any arrangement which assigned to the States less than 100 seats in the Federal Upper House. There is general agreement that the States should have a 40 per cent. representation in this House, which implies a House of about 250 members, as the White Paper proposes. For reasons which we discuss in connexion with the relative powers of the two Houses, we think it important also that their proportionate

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strength should be as in the White Paper. It follows therefore that since the Upper House is to have a strength of about 250, the Lower House cannot be reduced below the White Paper figure. There are also weighty reasons which affect British India for adhering to the White Paper proposals as regards numbers. If the size of the Council of State were materially reduced and if, as we have recommended, one-third of its membership is replaced every three years, the number of members whom provincial electoral colleges would be called upon to choose at any given election would be too small for the method of the single transferable vote to produce an equitable result from the point of view of minorities; and we should greatly regret the introduction of a communal basis for the Federal Upper House. There is another consideration affecting the Federal House of Assembly. It would be difficult, if the size of this House were reduced, to make any proportionate reduction in the number of seats assigned to special interests, since this would in several instances deprive them of seats which they have in the existing Legislative Assembly. These special interest seats, apart from those assigned to European commerce and industry, would in practice be almost entirely occupied by members of the Hindu community. We think it important that the Muhammadan community should have secured to it, as the White Paper proposes, one third of all the British-India seats; but if the number of the special interest seats is to remain undisturbed, the application to a substantially smaller House of the undertaking given to the Muhammadans would result in a disproportionate number of the ordinary (non-special) seats being allocated to the Muhammadans. The combined effect of the considerations mentioned in this and the preceding paragraph has led us to the conclusion, notwithstanding all the arguments which can be urged on the other side, that the size of the two Houses should stand as in the White Paper

Details of scheme set out in Appendix.

206. We have set out in the Appendix (II) to this part of our Report[1] a description of the scheme of indirect election which we recommend for the Council of State and for the Federal House of Assembly, so far as the British-India representatives are concerned. The details of the scheme are necessarily complex, and we think that they can be better appreciated if dealt with in this manner. It may well be that on further examination parts of the scheme will be found to require readjustment or revision in matters of detail, and we do not desire that our recommendations should be taken as precluding a further expert examination of it.

Representation of the States

207. The representatives of the States will be appointed by the Rulers of the States concerned. A difficult question arises, however, with regard to the allocation among nearly six hundred States of the 100 and 125 seats available for the States as a whole in the Council of State and Federal House of Assembly respectively. The White

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Paper does not deal with this matter, which we are informed has been under discussion between the Governor General and the Princes for some time past, and we have been furnished with details of a scheme which the Governor General has propounded as a basis for discussion. This scheme is set out in the Appendix (III) to this part of our Report.[1] It proceeds on the principle that the allocation of seats among the States should, in the case of the Council of State, take account of the relative rank and importance of the State as indicated by the dynastic salute and other factors, and in the case of the House of Assembly, should be based in the main on population. So far as we are able to judge, a scheme on these lines would be a reasonable one, and would be appropriate to the new constitutional arrangements which we contemplate. We observe that it makes provision for the pooling by groups of States of the representation allotted to them individually, with the object of securing a form of representation more suited to their common interests, and for giving legal effect to any arrangements so made. We see many advantages in a plan of this kind, if it should prove practicable.

Temporary weightage in compensation for non-acceding States.

208. The scheme makes provision for the representation of the whole of the States of India. It may well be however that not all the States will accede, at any rate in the early years of the Federation; nor could States under a minority administration in any event accede until the Ruler had taken over the government of the State. The White Paper proposes that any vacancies arising from non accession should for the time being remain unfilled. The States have urged that this arrangement would operate to the prejudice of those States which have in fact acceded in relation to the British-India portion of the Legislature, and we are of opinion that there is substance in the objection. We do not think that it would be reasonable to allocate to the States which accede the whole representation of those who are holding back: but we recommend that the representatives of the States which have acceded should be empowered to elect additional representatives in both Houses up to half the number of States' seats (including those States whose Rulers are minors) which remain unfilled. We think, however, that this arrangement should cease to operate when as a result of accessions 90 per cent of the seats allocated to the States are filled, and in any event at the expiration of 20 years from the establishment of the Federation.

Tenure of State's representatives.

209. A suggestion was brought to our notice that provision should be made in the Constitution Act for the vacation of his seat by a member of the Legislature appointed by the Ruler of State if called upon to do so by notice in writing from the Ruler. We could not accept this suggestion. We conceive that a State representative, although he is nominated and not elected, holds his seat by precisely the same tenure as an elected representative from British India, and no distinction should be made between the two.

[1] *Infra*, p 116

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Powers of the Federal Legislature

210 The observations which we have made in connection with the powers of the Provincial Legislatures apply generally, *mutatis mutandis*, to the Federal Legislature, and we are of opinion that the same general restrictions on the legislative power should apply in both cases We note that in addition to the legislative proposals which in a Province require the Governor's previous sanction, and will, in the Federal Legislature, require the sanction of the Governor-General, legislative proposals affecting any Reserved Department, the coinage and currency of the Federation, or the powers and duties of the Reserve Bank in relation to the management of currency and exchange will also require the Governor General's previous sanction [1] We have no comment to make on the first of these, which is a necessary corollary on the reservation to the Governor General of the control over certain Departments, and we deal with the second and third elsewhere in connexion with the Reserve Bank **Powers of Federal Legislature.**

211 It is proposed (and we concur) that the Governor-General's powers with regard to assent to, reservation of, or withholding assent from, any Bills presented to him should be the same as in the case of the Governor of a Province, except that the Governor-General reserves a Bill for the signification of His Majesty's pleasure whereas a Governor reserves it for the consideration of the Governor General [2] **The Governor-General's assent, etc., to Bills.**

212 It is proposed that the powers of the Federal Legislature shall not extend to the Chief Commissioner's Province of British Baluchistan The legislation required is to be obtained either by Regulations made by the Governor General at his discretion or by the application by him to the Province, with or without modification, of any enactment of the Federal Legislature, an arrangement which we are satisfied is the most appropriate which could be devised for an area of this character [3] **British Baluchistan.**

Procedure in the Federal Legislature

213 On this subject also it is unnecessary to repeat what we have already said in connexion with the Provincial Legislatures We draw attention, however, to three heads of expenditure which it is proposed should not be submitted to the vote of the Legislature, and which necessarily have no counterpart in the Provinces [4] These are (1) expenditure for a Reserved Department (2) expenditure for the discharge of the functions of the Crown in and arising out of its relations with the Rulers of Indian States, and (3) expenditure for the discharge of the duties imposed by the Constitution Act **Procedure in the Federal Legislature.**

[1] White Paper Proposal 119
[2] White Paper Proposal 39
[3] White Paper Proposal 58
[4] White Paper Proposal 40

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on the Secretary of State The inclusion of the first necessarily follows from the reservation of administration and control to the Governor General The second would include the expenses of the Political Department and other matters connected with the rights and obligations of Paramount Power. We understand the third to refer to such matters as expenditure in connexion with the Secretary of State's establishment in London, liabilities incurred by him on contracts or engagements to which he is or will become a

party under the provisions of the Constitution Act, and payments of compensation to members of the Public Services under his power in that behalf. We have no comments to make on any of these proposals.

Relations between the two Houses

214. We have pointed out that the Provincial Upper Houses are not intended to be bodies having equal powers with the Legislative Assemblies. In the case of the Federal Legislature, the proposals in the White Paper contemplate two Houses with nearly co-equal powers. The principal difference is in the sphere of finance. It is proposed that Money Bills should only be introduced in the Lower House, the Upper House having power to amend or reject them; and that in relation to Demands for Grants the power of the Upper House should be limited to requiring, but only at the instance of the Government, that any Demand which has been reduced or rejected by the Lower House should be brought before a Joint Session.[1] We entirely endorse the principle that, so far as possible, the two Houses should have equal powers, but we are not satisfied that the proposals to which we have just referred sufficiently secure this. We think that the Upper House should have wider powers in relation to finance, and that it should be able not only to secure that a rejected grant is reconsidered at a Joint Session of the two Houses, but also to refuse its assent to a grant which has been accepted by the Lower House. We think therefore that all Demands should be considered first by the Lower House and subsequently by the Upper, and that the powers of each House in relation to any Demand should be identical, any difference of opinion being resolved at a Joint Session to be held forthwith. Consistently with the same principle, we think that Money Bills should be capable of introduction in the Upper Chamber as well as in the Lower.

Joint Sessions.

215. We approve the plan of resolving the differences between the Houses by the decision of a majority of the two Houses sitting and voting together. But the principle of equality of powers requires that an effective voice in the final decision should be secured to the Upper House, and it is for that reason that we have accepted the numerical proportion between the two Houses proposed in the White Paper, that is to say, a proportion of approximately 2 : 3. The principle also makes appropriate a departure from the scheme of Joint Sessions which we have recommended in the case of the

[1] White Paper Proposals 38, 41, and 48.

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Provinces. There is no necessity for so long a period to elapse before the Joint Session is held as in the Provinces, where the functions of the Upper House are only those of revision and delay. We do not think that the White Paper proposals are in all respects satisfactory. In particular we think that there would be an advantage in extending the period after which a Joint Session may be held from three months to six, and in providing that it should not be held during the session of the Legislature in the course of which the difference of opinion arose between the Houses. It should be for the Federal Government to decide whether a Bill is to lapse or be referred to a Joint Session; and in the former case the Government should inform the Legislature of their decision before the end of the current session. The above should be the ordinary procedure; but in the case of Money Bills, Bills affecting the Reserved Departments, or Bills which in the opinion of the Governor-General involve his special responsibilities, the Governor-General must have power in his discretion to summon a Joint Session and obtain a decision forthwith. Amendments to any

Bill which is brought before a Joint Session should be subject to the rules which we have recommended in the case of the Provinces.

States' representatives and British-India legislation.

216. The question was much discussed before us whether any special provision ought to be included in the Constitution Act prohibiting States' representatives from voting on matters of exclusively British-India concern. The British-India Delegation in their Joint Memorandum urge that this should be done, and their suggestions are briefly as follows:—(1) that in a division on a matter concerning solely a British India subject, the States' representatives should not be entitled to vote; (2) that the question whether a matter relates solely to a British-India subject or not should be left to the decision of the Speaker of the House, which should be final; but (3) that if a substantive vote of no confidence is proposed on a matter relating solely to a British India subject, the States' representatives should be entitled to vote, since the decision might vitally affect the position of a Ministry formed on a basis of collective responsibility; (4) that if the Ministry is defeated on a subject of exclusively British India interest, it should not necessarily resign. We do not think that these suggestions would in any way meet the case. Circumstances may make any vote of a Legislature, even on a matter intrinsically unimportant, an unmistakable vote of no confidence, the distinction between formal votes of no confidence and other votes is an artificial and conventional one; and it would be impossible to base any statutory enactment upon it. On the other hand the States have made it clear that they have no desire to interfere in matters of exclusively British-India concern, nor could we suppose that it would be in their interests to do so; but they are anxious, for reasons which we appreciate, that their representatives should not be prevented by any rigid statutory provisions from exercising their own judgment, from supporting a Ministry with whose general policy they are fully in agreement, or from withholding

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their support from a Ministry whose policy they disapprove. In these circumstances we think that the true solution is to allow the matter to be regulated by the common sense of both sides and by the growth of constitutional practice and usage, and indeed we have no doubt that both parties will find it in their mutual interest to come to some suitable working arrangement at an early stage. We have, however, one suggestion to make which we think may be worth consideration. Under the Standing Orders of the House of Commons all Bills which relate exclusively to Scotland and have been committed to a Standing Committee are referred to a Committee consisting of all the members representing the Scottish constituencies, together with not less than ten nor more than fifteen other members. We think that a provision on these lines might very possibly be found useful, and that the Constitution Act might require that any Bill on a subject included in List III should, if extending only to British India, be referred to a Committee consisting either of all the British-India representatives or a specified number of them, to whom two or three States' representatives could, if it should be thought desirable, be added.

(4) THE RELATIONS BETWEEN THE FEDERATION AND THE FEDERAL UNITS

Administrative relations between the Federation and its constituent units.

217. The transformation of British India from a unitary into a Federal State necessitates a complete readjustment of the relations between the Federal and Provincial Governments. The Provincial Governments are at the present time subordinate to the Central

Government and under a statutory obligation to obey its orders and directions though the Central Government, and indeed, the Secretary of State himself, is bound by statutory rules not to interfere with the provincial administration save for certain limited purposes in matters which under the devolution rules now fall within the transferred provincial sphere. But though the respective spheres of the Centre and of the Provinces will in future be strictly delimited and the jurisdiction of each (except in the concurrent field which we have described elsewhere) will exclude the jurisdiction of the other, the conception of a Federation necessarily implies the existence of a nexus of some kind between the Federation and its constituent units. We have discussed elsewhere in our Report both the legislative and the financial nexus which the White Paper proposes to create; and we confine our observations here to the administrative relations between the Federal Government as such on the one hand and the Provincial Governments and the Rulers or Governments of the Indian States on the other.

Duty of Provincial Government to give effect to federal laws.

218. The Federal Legislature will have power to enact legislation on federal subjects which will have the force of law in every Province and, subject to any such limitations as may be contained in the Ruler's Instrument of Accession, in every Indian State which is a member of the Federation. The administration and execution of

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these laws may be vested in the Federation itself and in federal officers, or the Legislature may devolve upon the Provincial Governments or their officers the duty of executing and administering the law on behalf of the Federal Government (in the case of a State this would be done by means of an agreement between the Governor General and the Ruler of the State). In the case of laws relating to subjects in respect of which the Federal and the Provincial Legislatures have concurrent powers of legislation, we understand the intention to be (though the White Paper is by no means clear in this respect) that the functions of administration and execution are to vest in the Provincial Governments The White Paper proposes that it shall be the duty of a Provincial Government so to exercise its executive power and authority, in so far as it is necessary and applicable for the purpose, as to secure that due effect is given within the Province to every Act of the Federal Legislature which applies to that Province [1] This, as we read it, is a statement of the constitutional duty of every Province in relation to federal laws, which has no sanction behind it other than the moral obligation which must always rest upon the constituent units of a Federation to give effect to the laws of the political organism of which they form a part. But something more is required to secure the due execution by a provincial Government of laws relating to subjects on which the Federal Legislature is alone competent to legislate; and the Federal Government must be empowered to give directions to a provincial Government for the purpose of securing that due effect is given in the Province to any such law and that the manner in which the Provincial Government's executive power and authority is exercised in relation to the administration of the law is in harmony with the policy of the Federal Government.

Distinction between legislation in the exclusive and concurrent fields.

219. We have said that the White Paper does not make clear the distinction which, as it seems to us, ought to be drawn in this connexion between federal laws within the exclusive, and those within the concurrent, field We think that the Federal Government ought to have power to give directions to a provincial Government

with regard to the first, but with regard to the second, the administration of which will be essentially a matter of provincial concern, the Provinces must be left to act as they think right, though we hope in no anti-federal spirit. In the case of the States, it is proposed that the Ruler should accept the same general moral obligation which, as we have said, will rest upon the Provincial Governments, to secure that due effect is given within the territory of his State to every Federal Act which applies to that territory.[2] But we think that the White Paper rightly proposes that any general instructions to the Government of a State for the purpose of ensuring that the federal obligations of the State are duly fulfilled shall come directly from the Governor-General himself.

[1] White Paper, Proposal 12?
[2] White Paper, Proposal 12?

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220. It is, however, necessary to provide for a situation, though we may be permitted to hope that it will never in practice arise, in which a Provincial Government has declined to carry out the directions which it has received from the Federal Government. These directions would be issued in the name of the Governor-General as the executive head of the Federation, in whose name all executive acts will run; but where (as will commonly be the case) the directions relate to matters within the ministerial sphere, the Governor-General will be acting upon the advice of his Ministers. Among the special responsibilities of the Governor of a Province is one for "securing the execution of orders lawfully issued by the Governor-General"; and, since the directions of which we have spoken would be lawful orders of the Governor-General, it would become the duty of the Governor to secure their execution in opposition to the policy and (it must necessarily follow) to the advice of his Ministers. We do not think that the Governor of a Province ought to be placed in a position in which in effect he is compelled to over-rule his own Ministers at the instance of federal Ministers; and where a conflict of this kind arises between the Federal Government and the Government of a Province, any directions by the Governor-General which require the Governor to dissent from or to over-rule the provincial Ministry ought to be given in the Governor-General's discretion. The Governor-General would thus become the arbiter between the Federal and the Provincial Government, and we think that disputes between the two are far more likely to be settled amicably by the Governor-General's discretionary intervention. It cannot be assumed that the fault in cases of this kind will always lie with the Province; the Federal Government may have been tactless or unwise; and the Governor-General should not be under any constitutional obligation to take action against his better judgment, if the effect would only be to accentuate or embitter the dispute.

Enforcement of Federal Government's directions

221. We are of opinion that the proposals in the White Paper on this subject require modification. It should be made clear that the authority of the Federal Government only extends to the giving of directions to a Provincial Government in relation to the administration and execution of Federal Acts with respect to subjects on which the Federal Legislature is alone competent to legislate, and that for the purpose of implementing any directions so issued the Governor-General may in his discretion issue such orders to the Governor as he may think fit. A consequential modification will in that event be required in the definition of the Governor's special responsibility for securing the execution of orders lawfully issued by the Governor-General.

Modification of White Paper proposals suggested.

Governor-General's ultimate responsibility for peace of whole of India.

222. The White Paper proposes to empower the Governor-General in his discretion to issue instructions to the Governor of a Province as to the manner in which the executive power and authority in the Province is to be exercised for the purpose of preventing any grave menace to the peace and tranquility of India or any part thereof.[1] It

[1] White Paper, Proposal 126.

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has been suggested that in view of the special responsibility of the Governor to which we have referred above this proposal is superfluous. We do not think it is. The Governor of a Province is to have a special responsibility for the prevention of any grave menace to the peace or tranquility of his own Province, and we think that, but for the proposal to which we have referred, his special responsibility for securing the execution of orders lawfully issued by the Governor-General would necessarily be read as referring to the execution of orders issued by the Governor-General within the sphere of the Governor's statutory functions But, to take one example which occurs to us, a conspiracy in one Province to disturb the peace and tranquility of another might well be outside the Governor's special responsibility for the prevention of any grave menace to the peace or tranquillity of his own Province; and since we have no doubt that an ultimate and residuary responsibility for the peace and tranquillity of the whole of India must vest in the Governor-General, it is plain that the latter's power to give directions to a Governor should be wide enough to cover this case, and that it should be obligatory on a Governor to give effect to those directions, even though it is the peace of a neighbouring Province and not his own which is endangered

Inter-provincial disputes.

223. We do not observe any proposals in the White Paper dealing with disputes or differences between one Province and another, other than disputes involving legal issues, for the determination of which the Federal Court is the obvious and necessary forum. Yet it cannot be supposed that inter provincial disputes will never arise, and we have considered whether it would not be desirable to provide some constitutional machinery for disposing of them. At the present time the Governor-General in Council has the power to decide questions arising between two Provinces in cases where the Provinces concerned fail to arrive at an agreement, in relation to both transferred and reserved subjects; but plainly it would be impossible to vest such a power in the Governor-General or in the Governor-General or Federal Ministry after the establishment of Provincial Autonomy, though we do not doubt that the good offices of both will always be available for the purpose. But after careful consideration we have come to the conclusion that it would be unwise to include in the new Constitution any permanent machinery for the settlement of disputes of the sort which we have in mind, and in our opinion the more prudent course will be to leave the Provinces free to develop such extra constitutional machinery as the future course of events may show to be desirable. There will be necessarily many subjects on which inter-provincial consultation will be necessary, as indeed has proved to be the case even at the present time; and we anticipate that sooner or later a system of provincial conferences, held at regular intervals, will come into existence, as we believe has happened in Canada. Suggestions for a formal Inter-Provincial Council have been made to us, but we do not think

that the time is yet ripe for this. The assistance of Parliament may one day be invoked for the purpose of creating such a Council, but we think that this is a matter on which Indian opinion will be better able to form a considered judgment after some experience in the working of the new Constitution.

Water rights.

224. There is however one subject with respect to which we are of opinion that specific provision ought to be made. The Government of India has always possessed what may be called a common law right to use and control in the public interest the water supplies of the country, and a similar right has been asserted by the legislation of more than one Province as regards the water supplies of the Province "Water supplies" is now a provincial subject for legislation and administration, but the Central Legislature may also legislate upon it "with regard to matters of inter provincial concern or affecting the relations of a Province with any other territory" Its administration in a Province is reserved to the Governor in Council, and is therefore under the ultimate control of the Secretary of State, with whom the final decision rests when claims or disputes arise between one Provincial Government and another, or between a Province and a State This control of the Secretary of State obviously could not continue under the new Constitution, but it seems to us impossible to dispense altogether with a central authority of some kind

A provincial subject under the White Paper.

225 The White Paper proposes to give to the Provinces exclusive legislative power in relation to "water supplies, irrigation and canals, drainage and embankments, water storage and water power," and reserves no powers of any kind to the Federal Government or Legislature [1] The effect of this is to give each Province complete powers over water supplies within the Province without any regard whatever to the interests of neighbouring Provinces. The Federal Court would indeed have jurisdiction to decide any dispute between two Provinces in connection with water supplies, if legal rights or interests were concerned; but the experience of most countries has shown that rules of law based upon the analogy of private proprietary interests in water do not afford a satisfactory basis for settling disputes between Provinces or States where the interests of the public at large in the proper use of water supplies are involved. It is unnecessary to emphasise the importance from the public point of view of the distribution of water in India upon which not only the prosperity, but the economic existence, of large tracts depends.

Modification of White Paper proposals suggested

226 We do not think that it would be desirable, or indeed feasible, to make the control of water supplies a wholly federal subject but for the reasons which we have given it seems to us that complete provincialization might on occasion involve most unfortunate consequences. We suggest therefore that where a dispute arises between two units of the Federation with respect to an alleged use

[1] White Paper, Appendix VI, List II

by one unit of its executive or legislative powers in relation to water supplies in a manner detrimental to the interests of the other, the aggrieved unit should be entitled to appeal to the Governor General acting in his discretion, and that the Governor-General should be empowered to adjudicate on the application. We think, however, that the Governor-General, unless he thinks fit summarily to reject

the application, should be required to appoint an Advisory Tribunal for the purpose of investigating and reporting upon the complaint. The Tribunal would be appointed *ad hoc*, and would be an expert body whose functions would be to furnish the Governor-General with such technical information as he might require for the purposes of his decision and to make recommendations to him. Such recommendations, though they would naturally carry great weight with the Governor-General, would not necessarily be binding on him, and he would be free to decide the dispute in such manner as he thought fit. We think also that provision should be made for excluding the jurisdiction of the Federal Court in the case of any dispute which could be referred to the Governor-General in the manner which we have suggested. We should not propose that the powers of the Governor-General should extend to a case where one unit is desirous of securing the right to make use of water supplies in the territory of another unit, but only to the case of one unit using water to the detriment of another. With this limitation we believe that the plan would be a workable one, and that it could not reasonably be regarded as inconsistent with the conception of Provincial Autonomy.

Central research.

227 We have found occasion in later paragraphs to draw attention to the importance of the co-ordination of research in connection with the special subjects of Forestry and Irrigation. It is a matter very relevant to any consideration of the future relations between the Federal and Provincial Governments Whatever criticisms may have been levelled in the past against an excessive centralisation of government in India, they can have little application to the facilities thereby created for the pooling of ideas and of methods so as to enable the whole of India to benefit from the administrative experience of every part. It would be deplorable if the establishment of Provincial Autonomy were to lead the Provinces to suppose that each could regard itself as self sufficient, or to tempt the Centre to disinterest itself in the efforts which it has made in the past to collect and co-ordinate information for general use. If our recommendations are adopted, the existing central research institutions will remain under the exclusive control of the Federal Government, but they can only flourish if assured that the interest and support of the Provincial and States' Governments are still assured to them The Statutory Commission made special reference to the Council of Agricultural Research which was established as a result of the recommendations of the Royal Commission on Agriculture in India, and we agree with them in thinking that similar institutions might with advantage be established in other fields, such as Public Health and Education

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APPENDIX (II).

SCHEME FOR ELECTION OF BRITISH INDIA REPRESENTATIVES TO COUNCIL OF STATE AND HOUSE OF ASSEMBLY.

Council of State

1. The British India representatives will number 150, elected in the manner described below, together with 6 members nominated by the Governor-General in his discretion.

2 The members, other than those nominated, will be elected in three separate Divisions, A, B and C.

Members in Division A will retire after three years from the date when the House is first constituted, and thereafter every nine years.

Those in Division B after six years from that date and thereafter every nine years.

Those in Division C after nine years from that date and thereafter every nine years.

The members to be elected for each of the three Divisions will be allocated as follows:—

	A	B	C	Total
Madras	0	10	10	20
Bombay	8	0	8	16
Bengal	10	0	10	20
United Provinces	10	10	0	20
Punjab	8	8	0	16
Bihar	0	8	8	16
Central Provinces (with Berar)	0	8	0	8
Assam	0	5	0	5
North-West Frontier Province	0	0	5	5
Sind	5	0	0	5
Orissa	5	0	0	5
Coorg	0	0	1	1
Ajmer	0	0	1	1
Delhi	0	0	1	1
Baluchistan	0	0	1	1
Indian Christians	1	0	1	2
Anglo-Indians	0	0	1	1
Europeans	3	1	3	7
Total	50	50	50	150

3. The Indian Christian, Anglo-Indian and European members will be chosen by three Electoral Colleges of their own for the whole of British India, composed respectively of the Indian Christian, Anglo-Indian and European members of the Provincial Legislatures (including members from the Upper Houses of bicameral Provinces). The method of voting by the European Electoral College, when more than one seat is to be filled, will be the single transferable vote.

4. In the Provinces of Madras, Bombay, United Provinces and Bihar the Muhammadan members of the Provincial Upper House voting alone will elect one member for each of the two Divisions of the Federal Upper House in which the Province is represented. The remainder of the seats allocated to the Governors' Provinces, apart from these 8 seats, will be filled in the following manner:

(a) In the bicameral Governors' Provinces the members will be elected by all the members of the Provincial Upper House (except Indian Christian, Anglo-Indian and European members) by means of the single transferable vote.

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(b) In the unicameral Governors' Provinces, where Upper Houses do not exist, the members will be elected by a specially constituted Electoral College by means of the single transferable vote. The composition of these Electoral Colleges will be as follows:—

Province.	*General.*	*Sikh.*	*Muhammadan.*	*Total.*
Punjab	16	11	30	57
Central Provinces (with Berar)	31	—	5	36
Assam	21	—	12	33
North-West Frontier Province	5	1	19	25
Sind	10	—	18	28
Orissa	27	—	3	30

Members of the Electoral Colleges will be chosen by direct election from territorial communal constituencies. The franchise will be similar to that employed in other Provinces for direct election to the Provincial Upper House.

5. Special provisions will be necessary for the selection of the representative from Chief Commissioners' Provinces, except in the case of Coorg where the representative will be elected by members of the Coorg Legislature.

6. When the Federal Council of State is constituted for the first time, on that occasion, and on that occasion only, members of all three Divisions will

have to be elected at the same time There will, therefore, in the case of six Provinces be candidates for two different Divisions simultaneously The election will take place first for the Division which will be re-elected later than the other one. Those candidates who are not successful in the election for that Division will form the candidates for the immediately following election for the other Division [1]

7. Casual vacancies among the elected members of the Council of State will, so long as communal representation is retained as a feature of the Constitution, be filled by election by those members of the Provincial Upper House (or Electoral College) who are members of the Community to which the vacating member belongs, as proposed in the White Paper [2]

8 It will be observed that, although one third of the Council of State will be renewed at a time, the representatives of any given Province will be renewed half at a time in the larger Governors' Provinces, and the whole at a time in other Provinces The object of this arrangement is to avoid reducing the number of seats to be filled at any Provincial election to an extent which would be likely to have the effect of producing unsuitable results from the system of proportional representation

9 The object of the provision of eight seats to be filled by Muhammadan electors only is to secure that the Muhammadan community should be in a position to secure one third of all the British Indian seats if every Muhammadan elector in using first and succeeding preferences gave priority to all candidates of his own community

[1] It will probably be found possible to avoid a double reference to the voters After the election to one Division is completed the election to the other Division could presumably take place on the basis of the original voting papers, the names of the candidates already successful for the other Division being eliminated and the preferences on the voting papers being renumbered accordingly

[2] White Paper Proposal 25

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We agree with the proposal in the White Paper[1] that the Muhammadan community should be placed in a position in which they could achieve this result, and it is unlikely that they would be able to do so without the allocation to them of these few specifically communal seats This special provision is analogous to that which the Secretary of State for India has proposed for the same purpose in modification of Appendix I of the White Paper [2]

10 In the Governors' Provinces a candidate will be qualified for election to the Council of State if he (or she) is qualified for election to the Provincial Upper Chamber (or Electoral College as the case may be)

Special provisions will be required for the qualification of other candidates

Federal House of Assembly

11 The British India representatives in the Assembly will number 250, elected in the manner described below

12 The allocation of seats between Provinces and between the various special interests and communities will be in accordance with the numbers set out in the Table in Appendix II of the White Paper

13 The method of election to the special interest seats, that is to say, to the special seats assigned for women, commerce and industry, landholders and labour, will be as proposed in Appendix II to the White Paper

14 In the Governors' Provinces, election to the seats in the Assembly allocated as General or Muhammadan will be by the members of the Provincial Lower House who hold respectively General or Muhammadan seats in that House. Members who hold special interest seats in the Provincial Lower House will not participate. In the Punjab those members who hold Sikh seats in the Provincial Legislature will elect to the six Sikh seats from the Punjab in the Assembly. Subject to the following provision relating to the Depressed Classes, the method of voting within each of the above groups of electors will be the single transferable vote

15 In the case of General seats, it would be a simplification if there were no seats reserved for the Depressed Classes, reliance being placed on the

proportional representation system to secure a[1] due share of the General seats for the members of the Depressed Classes Unless, however, the adoption of such a course were agreed between the caste Hindus and Depressed Classes, we regard it as desirable to avoid disturbing, so far as possible, the arrangements in the White Paper for Depressed Classes representation in the Federal Lower House which are based on the Poona Pact Accordingly, out of the General seats there will be reserved for the Depressed Classes the number of seats indicated in Appendix II to the White Paper

16 The following seems to be a possible method for combining procedure for reservation of seats with the use of the single transferable vote After the voting papers have been received, and before the single transferable vote procedure is applied, those Depressed Class candidates, up to a number equal to that of the reserved seats, who receive the highest number of first preferences would be declared to be elected. The single transferable vote procedure would then be applied for the election to the remaining general seats It is necessary to provide, in accordance with the Poona Pact, that the only candidates qualified to be elected to the reserved seats should be those elected by a primary to a number equal to four times the number of reserved seats In order to constitute a primary of adequate size, we[2] think that it might consist, not only of those members of the Provincial Lower House

[1] White Paper Introd, para 18
[2] Evidence, Answer to Question 7911

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who hold the seats reserved therein for Depressed Classes but also of those who were successful candidates at the primary Depressed Class elections for the Provincial Lower House though they did not secure seats at the final election for that House

17 The seats allotted to Indian Christians, Anglo-Indians and Europeans will be filled by election by three Electoral Colleges of their own composed of all those who hold respectively Indian Christian, Anglo-Indian and European seats in the Provincial Lower Houses Those who hold special interest seats in those Houses will not participate The Electoral Colleges, composed of members from all the Provinces, will elect equal to the number from each Province to which is allocated an Indian Christian,[1] Anglo-Indian or European seat

18 Special provisions will be necessary for the election of the representatives from Chief Commissioners' Provinces except in the case of Coorg where the representative will be elected by members of the Coorg Legislature

19 In Governors' Provinces (and Coorg) a candidate will be qualified for election to a seat in the Federal Assembly (other than a special interest seat) if he is qualified for election to the Provincial Lower House for a General, Muhammadan or Sikh seat as the case may be Qualifications for a candidate for the General seats which are reserved for the Depressed Classes will be as described above.

Special provision will be required for the qualifications of candidates in Chief Commissioners' Provinces other than Coorg

[1] In Madras there are *two* Indian Christian seats. Voting for these will be by means of the single transferable vote

APPENDIX (III)

Scheme of distribution of States' seats in Federal Legislature as propounded by Governor General as basis of discussion

In *Annexure A* below, list I includes (*a*) the seats allotted to certain States individually which are not included in the regional lists II–IX which follow, (*b*) the total number of seats allotted to the States with continuous or alternating representation included in each of the regional lists II–IX, and (*c*) the total number of seats allotted in list X to the joint representation of groups of minor non-salute states which are not included in the regional lists. *Annexure B* gives the states accorded individual representation in order of salute and population with the representation allotted to each.

There are 104 States' seats in the Council of State. Four seats have been added to the 100 seats referred to in the body of the Report, in place of the States' share (40 per cent) of the 10 seats which the White Paper proposed should be filled by nomination by the Governor General. The nominated seats in the Council of State will accordingly be reduced to six from British India.

The 104 seats available in the Council of State have been divided into three categories (*a*) those to be filled continuously by one State, (*b*) those to be filled in alternation by two or more States, as shown in groups in lists II–IX, and (*c*) those to be filled by the representatives of the groups of minor States given in list X, the three categories having been determined with a view to enabling as many States as possible to enjoy individual representation with due regard to their relative importance, and, where a seat is shared between two or more, to their proximity.

The 125 seats available in the House of Assembly have been distributed roughly on a population basis, but in such a way as to reduce slightly the number of seats available to the most populous States so as to secure separate representation for as many States as possible. So far as possible the groups for alternating representation of States in a single seat proposed for the Council of State have been retained for the Assembly. But it is intended that in the latter Chamber the States grouped together shall nominate joint representatives instead of having the option of occupying in turn the seat allotted to them.

It is proposed that group representation shall be subject to the following provisions. If not less than half the number of Rulers comprised in a particular group accede to Federation they shall be entitled to fill the seat allotted to the group. To meet cases of difficulty when less than 50 per cent of the members of a group accede to Federation, the Governor General should be empowered to determine disputes and to vary the composition of groups when necessity arises. The members of an alternating group shall be entitled, each in turn, to appoint a representative for a period of one calendar year. But if States so prefer they may pool their allotted quota of seats with those of other States so as to be represented by joint nominees, thus possibly, where entitled under the scheme only to a seat in rotation, securing instead continuous joint representation. To enable such arrangements to be made voluntarily between States the Governor General shall be empowered to vary the distribution of groups as scheduled to the Constitution Act where necessity arises, subject to his being satisfied that the arrangements proposed would not adversely affect the rights and interests of other States which do not desire to participate therein.

ANNEXURE

LIST I

	Name of State	*No. of Seats in the Upper House*	*Population*	*No. of Seats in the Lower House*
(a)	Hyderabad	5	14,436,148	14
	Mysore	3	6,557,302	7
	Kashmir	3	3,646,243	4
	Gwalior	3	3,523,070	4
	Baroda	3	2,443,007	3
	Kalat	2	342,101	1
	Travancore	2	5,095,973	5
	Cochin	2	1,205,016	1
	Rampur	1	465,225	1
	Benares	1	391,272	1
	Sikkim	1	109,808	-
(b)	*Rajputana Agency* (List II)	19	11,180,826	17
	Central India Agency (List III)	17	6,385,030	14
	Western India and Gujarat States Agencies and certain States from Rajputana and Deccan States Agencies (List IV)	13	4,784,910	12
	Deccan States and Kolhapur Agency (List V)	5	2,322,314	5
	Punjab States Agency and Tehri (Garhwal) (List VI)	11	5,048,964	11
	Bengal and Assam States (List VII)	2	1,418,912	3
	Madras States Group (Pudukkottai, Banganapalle and Sandur) (List VIII)	1	453,495	
	Eastern States Agency Bihar and Orissa States (14 States) and (List IX)	3 }	4,100,460	9 }
	Central Provinces States (9 States)	2 }	2,193,661	5 }
(c)	*Non salute States, not provided for above* (List X)	5	2,818,876	
		104		125

LIST II

Rajputana

Upper House

Name of State	*No of Seats*
Udaipur	2
Jaipur	2
Jodhpur	2
Bikaner	2
Alwar	1
Kotah	1
Bharatpur	1
Tonk	1

Lower House.

Name of State	*Population*	*No. of Seats*
Udaipur	1,566,910	2
Jaipur	2,631,775	3
Jodhpur	2,125,982	2
Bikaner	936,218	1
Alwar	749,751	1
Kotah	685,804	1
Bharatpur	486,954	1
Tonk	317,360	1

LIST II—*continued*

Upper House

Name of State	*No. of Seats*
Dholpur	1
Karauli	1
Bundi	1
Sirohi	1
(15- and 13-gun States and 9-gun State of Shahpura in groups of 2 and 3 alternate representation.)	
Group I	
Dungarpur	1
Banswara	
Group II	
Partabgarh . . .	1
Jhalawar .. .	
Shahpura	
Group III	
Jaisalmer	1
Kishengarh .. .	
	19

Lower House

Name of State	*Population*	*No. of Seats*
Group I		
Dholpur .. .	254,986	1
Karauli . .	140,525	
	395,511	
Group II		
Bundi . .	216,722	1
Sirohi .	216,528	
	433,250	
Group III		
Dungarpur ..	227,544	1
Banswara ..	225,106	
	452,650	
Group IV		
Partabgarh .	76,539	1
Jhalawar . ..	107,890	
Shahpura . ..	54,233	
	238,662	
Group V		
Jaisalmer .. .	76,255	1
Kishengarh .	85,744	
	161,999	17

LIST III

Central India

Upper House

Name of State	*No. of Seats*
Indore	2
Bhopal	2
Rewa	2
Datia	1
Orchha	1
Dhar	1
(15- and 13-gun States in groups of 2—alternate representation.)	
Group I	
Dewas (Senior)	1
Dewas (Junior)	

Lower House

Name of State	*Population*	*No. of Seats*
Indore	1,318,217	2
Bhopal . ..	729,955	1
Rewa	1,587,445	2
Group I		
Datia . .	158,834	1
Orchha	314,661	
	473,495	
Group II		
Dhar	243,430	1
Dewas (Senior) ..	83,321	
Dewas (Junior) ..	70,513	
	397,264	

LIST III—*continued*

Upper House

Name of State	*No. of Seats*
Group II	
Jaora	1
Ratlam	
(11-gun States in group of 2—alternate representation.)	
Panna	1
Ajaigarh	
(11-gun States in group of 3—alternate representation.)	
Charkhari	1
Chhatarpur	
Baoni	
(11- and 9-gun States in group of 5—alternate representation.)	
Bijawar	1
Samthar	
Maihar	
Nagod	
Baraundha	
(11-gun States in group of 2—alternate representation.)	
Barwani	1
Ali Rajpur	
(11-gun States in group of 3—alternate representation.)	
Jhabua	1
Sailana	
Sitamau	
11-gun States and 9-gun State of Khilchipur in group of 3—alternate representation.)	
Rajgarh	1
Narsingarh	
Khilchipur	
	17

Lower House

Name of State	*Population*	*No. of Seats*
Group III		
Jaora	100,166	1
Ratlam	107,326	
	207,492	
Group IV		
Panna	212,130	1
Ajaigarh	85,895	
	298,025	
Group V		
Charkhari	120,351	1
Chhatarpur	161,267	
Baoni	19,132	
	300,750	
Group VI		
Bijawar	115,852	1
Samthar	33,307	
Maihar	68,891	
Nagod	74,589	
Baraundha	16,071	
	308,810	
Group VII		
Barwani	141,110	1
Ali Rajpur	101,963	
	243,073	
Group VIII		
Jhabua	145,522	1
Sailana	35,223	
Sitamau	28,422	
	209,167	
Group IX		
Rajgarh	131,891	1
Narsingarh	113,873	
Khilchipur	45,583	
	291,347	14

LIST IV

Western India and Gujarat States; States of Palanpur, and Danta from the Rajputana Agency; and Janjira from the Deccan States Agency

Upper House

Name of State	*No. of Seats*
Cutch	1
Idar	1
Nawanagar	1
Bhavnagar	1
Junagadh	1
(13- and 11-gun States in groups of 2 -alternate representation.)	
Group I	
Rajpipla	1
Palanpur	
Group II	
Dhrangadhra	1
Gondal	
Group III	
Porbandar	1
Morvi	
(11- and 9 gun States in groups of 3 alternate representation.)	
Group I	
Radhanpur	1
Wankaner	
Palitana	
Group II	
Cambay	1
Janjira	
Dharampur	
(9-gun States in groups of 3 and 4 alternate representation.)	
Group I	
Baria	1
Chhota Udepur	
Sant	
Lunawada	
Group II	
Balasinor	1
Bansda	
Sachin	
Jawhar	
Group III	
Dhrol	1
Limbdi	
Wadhwan	
Rajkot	
Danta	
	13

Lower House

Name of State	*Population*	*No. of Seats*
Cutch	514,307	1
Idar	262,660	1
Nawanagar	409,192	1
Bhavnagar	500,274	1
Junagadh	545,152	1
Group I		
Rajpipla	206,114	1
Palanpur	264,179	
	470,293	
Group II		
Dhrangadhra	88,961	1
Gondal	205,846	
	294,807	
Group III		
Porbandar	115,673	1
Morvi	113,023	
	228,696	
Group IV		
Radhanpur	70,530	1
Wankaner	44,259	
Palitana	62,150	
	176,939	
Group V		
Cambay	87,761	1
Janjira	110,366	
Dharampur	112,051	
	310,178	
Group VI		
Baria	159,429	1
Chhota Udepur	144,640	
Sant	83,538	
Lunawada	95,162	
	482,769	
Group VII		
Balasinor	52,525	1
Bansda	48,807	
Sachin	22,107	
Jawhar	57,280	
Dhrol	27,653	
Limbdi	40,088	
Wadhwan	42,602	
Rajkot	75,540	
Danta	23,023	
	380,625	**12**

LIST V

Deccan States and Kolhapur

Upper House

Name of State	No of Seats
Kolhapur	2
(9-gun States in a group of 4—alternate representation.)	
Sangli	1
Savantvadi	
Mudhol	
Bhor	
(Non-salute States in groups of 5—alternate representation)	
Group I	
Jamkhandi	1
Miraj (Senior)	
Miraj (Junior) .. .	
Kurundwad (Senior) .	
Kurundwad (Junior) ..	
Group II	
Akalkot	1
Phaltan	
Jath	
Aundh	
Ramdurg	
	5

Lower House

Name of State	Population	No. of Seats
Kolhapur	957,137	1
Group I		
Sangli . ..	258,512	1
Bhor	141,546	
	400,058	
Group II		
Savantvadi ..	230,589	1
Mudhol	62,860	
	293,449	
Group III		
Jamkhandi ..	114,282	1
Miraj (Senior) .	93,957	
Miraj (Junior) ..	40,686	
Kurundwad (Senior)	44,251	
Kurundwad (Junior)	39,563	
	332,739	
Group IV		
Akalkot	92,636	1
Phaltan	43,285	
Jath	91,102	
Aundh	76,507	
Ramdurg	35,401	
	338,931	5

LIST VI

Punjab States and Tehri-Garhwal

Patiala	2
Bahawalpur	2
Khairpur	1
Kapurthala	1
Jind	1
Nabha	1
(11-gun States and 9 gun State of Loharu in groups of 3 alternate representation)	
Group I	
Mandi, Bilaspur, Suket	1
Group II	
Tehri Garhwal, Sirmur, Chamba	1
Group III	
Faridkot, Malerkotla, Loharu	1
	11

Patiala	1,625,520	2
Bahawalpur	984,612	1
Khairpur	227,183	1
Kapurthala	316,757	1
Jind	324,686	1
Nabha	287,574	1
Tehri Garhwal	349 573	1
Group I		
Mandi	207,465	1
Bilaspur	100,994	
Suket	58,408	
	366,867	
Group II		
Sirmur	148,568	1
Chamba	146,870	
	295,430	
Group III		
Faridkot	164,364	1
Malerkotla	83,072	
Loharu	23,338	
	270,774	11

LIST VII

Bengal and Assam States

Cooch Behar (Alternate representation)	1
Tripura, Manipur	1
	2

Cooch Behar	590,886	1
Tripura	382,450	1
Manipur	445,606	1
		3

LIST VIII

Madras States

Upper House

Name of State	No of Seats
(Group representation)	
Pudukkottai, Banganapalle, Sandur	1

Lower House

Name of State	Population	No. of Seats
Pudukkottai	400,694	1
Banganapalle	39,218	
Sandur	13,583	
	453,495	

LIST IX

Eastern States Agency

(a) *Bihar and Orissa States*

(9-gun States in a group of 4—alternate representation.)

Mayurbhanj .. .. .. Patna .. .. .. Kalahandi .. .. .. Sonpur	1

(Non-salute States in groups of 5—alternate representation.)

Group I

Keonjhar .. .. .. Dhenkanal .. .. .. Nayagarh .. .. .. Talcher .. .. Nilgiri	1

Group II

Gangpur .. .. .. Bamra .. .. .. Seraikela .. .. .. Baud .. .. .. Bonai	1
	3

(b) *Central Provinces*

(Non-salute States in a group of 4—alternate representation.)

Bastar .. .. .. Surguja .. .. .. Raigarh .. .. .. Nandgaon	1

(Non-salute States in a group of 5—alternate representation.)

Khairagarh .. .. .. Jashpur .. .. .. Kanker .. .. .. Sarangarh .. .. .. Korea	1
	2

(a) *Bihar and Orissa States*

Mayurbhanj ..	889,603	1
Patna	566,924	1
Kalahandi	513,716	1
Sonpur	237,920	1
Keonjhar	460,609	1
Gangpur	356,674	1
Dhenkanal ..	284,326	3
Nayagarh	142,406	
Seraikela	143,525	
Baud	135,248	
Talcher	69,702	
Bonai	80,186	
Nilgiri	68,594	
Bamra	151,047	
	1,892,297	
		9

(Dhenkanal to Bamra bracketed together: 3)

(b) *Central Provinces*

Bastar ..	524,721	1
Surguja	501,939	1
Raigarh	277,569	3
Khairagarh ..	157,400	
Jashpur	193,698	
Kanker	136,101	
Sarangarh	128,967	
Korea	90,886	
Nandgaon	182,380	
	1,167,001	5

(Raigarh to Nandgaon bracketed together: 3)

ANNEXURE B

Note.—(The left-hand figures are those of the population in thousands.)

Salute—21 guns

State		*Upper House*	*Lower House*
Hyderabad	14,436	5	14
Mysore	6,557	3	7
Kashmir	3,646	3	4
Gwalior	3,523	3	4
Baroda	2,443	3	3

Salute—19 guns

Travancore	5,096	2	5
Udaipur	1,567	2	2
Indore	1,318	2	2
Kolhapur	957	2	1
Bhopal	730	2	1
Kalat	342	2	1

Salute—17 guns

Jaipur	2,632	2	3
Jodhpur	2,126	2	2
Patiala	1,626	2	2
Rewa	1,587	2	2
Cochin	1,205	2	1
Bahawalpur	985	2	1
Bikaner	936	2	1
Kotah	683	1	1
Cutch	514	1	1
Bharatpur	487	1	1
Tonk	317	1	1
Bundi	217	1	1/2
Karauli	141	1	1/2

Salute—15 guns

Alwar	750	1	1
Rampur	465	1	1
Orchha	315	1	1/2
Idar	263	1	1
Dholpur	255	1	1/2
Dhar	243	1	1/3
Dungarpur	228	1/2	1/2
Khairpur	227	1	1
Banswara	225	1/2	1/2
Sirohi	217	1	1/2
Datia	159	1	1/2
Sikkim	110	1	—
Kishengarh	86	1/2	1/2
Dewas (Senior)	83	1/2	1/3
Partabgarh	77	1/3	1/3
Jaisalmer	76	1/2	1/2
Dewas (Junior)	70	1/2	1/3

Salute—13 guns

State		*Upper House*	*Lower House*
Cooch Behar	590	1	1
Junagadh	545	1	1
Bhavnagar	500	1	1
Nawanagar	409	1	1
Benares	391	1	1
Tripura	382	1/2	1
Jind	325	1	1
Kapurthala	316	1	1
Nabha	287	1	1
Palanpur	264	1/2	1/2
Rajpipla	206	1/2	1/2
Porbandar	116	1/2	1/2
Jhalawar	108	1/3	1/3
Ratlam	107	1/2	1/2
Jaora	100	1/2	1/2
Dharangadhra	89	1/2	1/2

Salute—11 guns

Manipur	446	1/2	1
Pudukkottai	401	group	1/3
Tehri Garhwal	350	1/3	1
Panna	212	1/2	1/2
Mandi	207	1/3	1/3
Gondal	206	1/2	1/2
Faridkot	164	1/3	1/3
Chhatarpur	161	1/3	1/3
Sirmur	149	1/3	1/2
Chamba	147	1/3	1/2
Jhabua	146	1/3	1/3
Barwani	141	1/2	1/2
Rajgarh	132	1/3	1/3
Charkhari	120	1/3	1/3
Bijawar	116	1/5	1/5
Narsingarh	114	1/3	1/3
Morvi	113	1/2	1/2
Janjira	110	1/3	1/3
Alirajpur	102	1/2	1/2
Bilaspur	101	1/3	1/3
Cambay	88	1/3	1/3
Ajaigarh	86	1/2	1/2
Malerkotla	83	1/3	1/3
Radhanpur	71	1/3	1/3
Suket	58	1/3	1/3
Wankaner	44	1/3	1/3
Sailana	35	1/3	1/3
Samthar	33	1/5	1/5
Sitamau	28	1/3	1/3
Baoni	19	1/3	1/3

LIST X

Non-Salute States

Upper House

Name of State	*No of Seats*
States in Western Kathiawar and Eastern Kathiawar Agencies	1
States in Sabar Kantha, Gujarat States and Deccan States Agencies	1
Bihar and Orissa and Central Provinces States (Eastern States Agency)	1
Central India States and Rajputana States (Kushalgarh and Lawa)	1
Simla Hill States and Kalsia Pataudi and Dujana	1
	5

Lower House

Name of State	*Population*	*No. of Seats*
States in Western Kathiawar Agency	421,435	1
States in Eastern Kathiawar and Old Banas Kantha Agencies	467,096	1
States in Old Mahi Kantha, Gujarat States and Deccan States Agencies	377,413	1
Bihar and Orissa and Central Provinces States (Eastern States Agency)	822 200	2
Central India States and Rajputana States (Kushalgarh and Lawa)	319,089	1
Simla Hill States and Kalsia Pataudi and Dujana	437 787	1
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Salute—9 guns

State		Upper House	Lower House
Mayurbhanj ..	890	1/4	1
Patna ..	567	1/4	1
Kalahandi ..	514	1/4	1
Sangli ..	259	1/4	1/2
Sonpur ..	238	1/4	1
Savantvadi ..	231	1/4	1/2
Baria	159	1/4	1/4
Chhota Udepur	145	1/4	1/4
Bhor	142	1/4	1/2
Dharampur ..	112	1/3	1/3
Lunawada ..	95	1/4	1/4
Sant	84	1/4	1/4
Rajkot ..	76	1/5	1/5
Nagod.. ..	75	1/5	1/5
Maihar ..	69	1/5	1/5
Mudhol ..	63	1/4	1/2
Palitana ..	62	1/3	1/3
Jawhar ..	57	1/4	1/4
Shahpura ..	54	1/3	1/3
Balasinor ..	53	1/4	1/4
Bansda ..	49	1/4	1/4
Khilchipur ..	46	1/3	1/3
Wadhwan ..	43	1/5	1/5
Limbdi ..	40	1/5	1/5
Banganapalle	39	group	1/3
Dhrol	28	1/5	1/5
Loharu ..	23	1/3	1/3
Danta ..	23	1/5	1/5
Sachin ..	22	1/4	1/4
Baraundha ..	16	1/5	1/5

Salute—Non-salute

State		Upper House	Lower House
Bastar ..	525	1/4	1
Surguja ..	502	1/4	1
Keonjhar ..	461	1/5	1
Gangpur ..	357	1/5	1
Dhenkanal ..	284	1/5	3/8
Raigarh ..	278	1/4	3/7
Jashpur ..	194	1/5	3/7
Nandgaon ..	182	1/5	3/7
Khairagarh ..	157	1/4	3/7
Bamra ..	151	1/5	3/8
Soraikela ..	144	1/5	3/8
Nayagarh ..	142	1/5	3/8
Kanker ..	136	1/5	3/7
Baud	135	1/5	3/8
Sarangarh ..	129	1/5	3/7
Jamkhandi ..	114	1/5	1/5
Miraj (Senior)	94	1/5	1/5
Akalkot ..	93	1/5	1/5
Jath	91	1/5	1/5
Korea ..	91	1/5	3/7
Bonai	80	1/5	3/8
Aundh ..	76	1/5	1/5
Talcher ..	70	1/5	3/8
Nilgiri ..	69	1/5	3/8
Kurundwad (Senior).	44	1/5	1/5
Phaltan ..	43	1/5	1/5
Miraj (Junior)	40	1/5	1/5
Kurundwad (Junior).	40	1/5	1/5
Ramdurg ..	35	1/5	1/5
Sandur ..	14	group	1/3

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IV. SPECIAL SUBJECTS

(1) THE DISTRIBUTION OF LEGISLATIVE POWERS

Importance of the subject.

228. In an earlier part of this Report we have discussed briefly and in general terms our conception of a statutory distribution of legislative powers between the Centre and the Provinces as an essential feature of Provincial Autonomy and as being itself the means of defining its ambit. But the precise method by which this general purpose is to be effected is a matter of such paramount importance to the working of the Constitution which we envisage as to demand more detailed examination.

The plan of a statutory delimitation of legislative powers.

229. We have already explained[1] that the general plan of the White Paper, which we endorse, is to enumerate in two lists the subjects in relation to which the Federation and the Provinces respectively will have an exclusive legislative jurisdiction; and to enumerate in a third list the subjects in relation to which the Federal and each Provincial Legislature will possess concurrent legislative powers—the powers of a Provincial Legislature in relation to the subjects in this list extending, of course, only to the territory of the Province. The result of the statutory allocation of exclusive powers will be to change fundamentally the existing legislative relations between the Centre and the Provinces. At present the Central Legislature has the legal power to legislate on any subject, even though it be classified by rules under the Government of India Act as a provincial subject, and a Provincial Legislature can similarly legislate for its own territory on any subject, even though it be classified as a central subject; for the Act of each Indian Legislature, Central or Provincial, requires the assent of the Governor-General, and, that assent having been given, section 84 (3) of the Government of India Act provides that "the validity of any Act of the Indian Legislature or any local Legislature shall not be open to question in any legal proceedings on the ground that the Act affects a provincial subject or a central subject as the case may be." If our recommendations are adopted, an enactment regulating a matter included in the exclusively Provincial List will hereafter be valid only if it is passed by a Provincial Legislature, and an enactment regulating a matter included in the exclusively Federal List will be valid only if it is passed by the Federal Legislature: and to the extent to which either Legislature invades the province of the other, its enactment will be *ultra vires* and void. It follows that it will be for the Courts to determine whether or not in a given enactment the Legislature has transgressed the boundaries set for it by the exclusive List, federal or provincial, as the case may be. The questions which may arise

[1] *Supra*, para. 48.

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as to the validity of legislation in the concurrent field are more complicated, and we shall discuss them later; but here, also, disputes as to the validity of legislation will in the last resort rest with the Courts.

Any other plan inconsistent with Provincial Autonomy.

230. We do not disguise the fact that these proposals will open the door to litigation of a kind which has hitherto been almost unknown in India; nor have we forgotten that the Statutory Commission expressed the hope that the provisions of the existing Act which we have mentioned above would be preserved.[2] As we shall explain

our recommendations will have the effect of preserving in the limited sphere of the concurrent field the main feature of the existing system; but we feel no doubt that the White Paper correctly insists upon a statutory allocation of exclusive jurisdictions to the Centre and the Provinces respectively as the only possible foundation for the Provincial Autonomy which we contemplate. We are fully sensible of the immense practical advantages of the present system, and of the uncertainties and litigation which have followed elsewhere from a statutory delimitation of competing jurisdictions; but we are satisfied that a relationship between Centre and Provinces, in which each depends in the last resort for the scope of its legislative jurisdiction on the decision of the Central Executive as represented by the Governor-General, would form no tolerable basis for an enduring Constitution and would be inconsistent with the whole conception of autonomous Provinces.

The revised Lists.

231. The Lists, as they appear in Appendix VI to the White Paper, are described as illustrative and do not purport to be either complete or final. Since their publication, however, they have been subjected to a careful scrutiny by the Government of India and the Provincial Governments, whose criticisms have in their turn been examined by the framers of the original Lists; and the results of this scrutiny and examination have been placed at our disposal. In the light of this further information we are satisfied (though the final form must be a matter for the draftsman) that the revised Lists which we append to this chapter represent a workable and appropriate allocation of legislative powers.

Two Lists or one as the method of defining exclusive jurisdictions.

232. We confine our attention for the moment to Lists I and II, which define respectively the exclusive jurisdiction of the Centre and of the Provinces. We believe that the attempt which these Lists represent to allocate by enumeration with any approach to completeness the functions of legislation, including taxation, to rival Legislatures is without precedent. In other Constitutions the method adopted has usually been to specify exhaustively the subjects allocated to one Legislature and to assign to the other the whole of the unspecified residue, and this method has not only the merit of simplicity, but diminishes greatly the opportunity for litigation. But, as we have

* Report, Vol. II, para 154

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said elsewhere, opinion in India is sharply divided into two opposing schools of thought, one of which refuses to countenance the bias in favour of the Centre, which is assumed to follow from the possession by the Centre of residual powers, while the other as rigidly refuses to concede the possession of these powers to the Provinces. We are ourselves convinced that the laborious and careful enumeration of both sets of subjects has secured that in fact no material and unforeseen accretion of power, either to Centre or Provinces, would result from the elimination of one List or the other; and we are satisfied that the process has reduced the residue to proportions so negligible that the apprehensions which have been felt on one side or the other are without foundation. Recognising, however, the strength of Indian feeling on this matter we are unwilling to disturb the compromise embodied in the White Paper, the effect of which is to empower the Governor-General acting in his discretion to allocate the Centre or Province as he may think fit the right to legislate on any matter which is not covered by the enumeration in the Lists. We are conscious of the objections to this proposal;

it is inconsistent with our desire to see a statutory delimitation of legislative jurisdictions: and the power vested in the Governor-General necessarily empowers him not merely to allocate an unenumerated subject, but also in so doing to determine conclusively that a given legislative project is not, in fact, covered by the enumeration as it stands,—a question which might well be open to argument, though we assume that in practice the Governor-General would seek an advisory opinion from the Federal Court. On the other hand, it must not be forgotten that an enumeration of the powers of the Centre and the allocation of the unspecified residue to the Provinces involves the consequence that the Provinces would acquire the right to assume to themselves any unspecified sources of taxation which might hereafter be devised; and if this position were accepted it might well be necessary to deal separately and by a different method with the power to impose taxation. We recommend, however, as some mitigation of the uncertainty arising from the inevitable risks of overlapping between the entries in the Lists, that the Act should provide that the jurisdiction of the Federal Legislature shall, notwithstanding anything in Lists II and III, extend to the matters enumerated in List I and that the jurisdiction of the Federal Legislature under List III shall, notwithstanding anything in List II, extend to the matters enumerated in List III. The effect of this will be that, in case of conflict between entries in List I and entries in List II, the former will prevail, and, in case of conflict between entries in List III and entries in List II, the former will prevail so far as the Federal Legislature is concerned.

233. We turn now to the problems presented by the Concurrent List We have explained elsewhere our reasons for accepting the principle of a Concurrent List, but the precise definition of the powers to be conferred upon the Centre in relation to the matters contained in it The Concurr. List.

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presents a difficult problem. In the first place, it appears to us that, while it is necessary for the Centre to possess in respect of the subjects included in the List a power of co-ordinating or unifying regulation, the subjects themselves are essentially provincial in character and will be administered by the Provinces and mainly in accordance with provincial policy; that is to say, they have a closer affinity to those included in List II than to the exclusively federal subjects. At the same time, it is axiomatic that, if the concurrent legislative power of the Centre is to be effective in such circumstances, the normal rule must be that in case of conflict between a Central and a Provincial Act in the concurrent field, the former must prevail. But an unqualified provision to that effect would enable an active Centre to oust provincial jurisdiction entirely from the concurrent field, and would thus defeat one of the main purposes of the latter. We have already expressed our approval of the device adopted in the White Paper for the purpose of meeting this difficulty, under which the Governor-General, acting in his discretion, is made the arbiter between conflicting claims of Centre and Provinces. This in effect preserves in the limited sphere of the concurrent field the existing legislative relation between Centre and Provinces which excited the admiration of the Statutory Commission; but it seems to us impossible, consistently with our conception of Provincial Autonomy, to preserve it in its entirety. We think, however, that it would be a mistake to attempt to limit the powers of the Central Legislature in this field by any statutory definition of the purpose for which, or the conditions subject to which, they are to be used.

Relations between Centre and Provinces in the concurrent field.

234. There are obvious attractions to those who wish to see the freedom and initiative of the Provinces as unfettered as possible in an attempt to ensure by provisions in the Constitution Act that the powers of the Centre in the concurrent field are to be capable of use only where an all India necessity is established, and where the enactment in question can appropriately be, and in fact is, applied to every Province. We are clearly of opinion that such a restriction, apart from the prospect of litigation which it opens up, would tend to defeat the objects we have had in view in revising the List of concurrent subjects. For similar reasons we should strongly deprecate any provision requiring the prior assent of the Provinces, or of a majority of them, as a condition precedent to the exercise by the Centre of its powers in this field, or the condition suggested in the White Paper that the Centre is to be debarred from so using its powers in respect of a concurrent subject as to impose financial obligation on the Provinces. We recognise that, in practice, it will be impossible for the Centre to utilise its powers in the concurrent field without satisfying itself in advance that the Governments to whose territories a projected measure will apply are, in fact, satisfied with its provisions and are prepared in cases where it will throw extra burdens upon provincial resources to recommend to their own

Legislatures the provision of the necessary supply; but we consider that the practical relationships which are to develop between Centre and Provinces in this limited field must be left to work themselves out by constitutional usage and the influence of public opinion, and that no useful purpose would be served by attempting to prescribe them by means of rigid legal sanctions and prohibitions. Nevertheless, we regard it as essential to satisfactory relations between Centre and Provinces in this field that the Federal Government before initiating legislation of the kind which we are discussing should ascertain provincial opinion by calling into conference with themselves representatives of the Governments concerned. It follows that, while we fully accept the proposals in the White Paper for defining the constitutional duties and obligations of Provincial Governments in relation to the execution of Federal Acts of all kinds, whether they relate to matters included in List I or to those in List III, we think that they need qualification in so far as they are intended to empower the Federal Government to issue mandatory directions to the Provinces. Such a power is clearly essential in relation to the federal field proper; but we do not think that it should extend to matters relating to the execution of federal laws in the concurrent field. At the same time we recommend that, although no statutory limitation should be imposed upon the exercise by the Centre of its legislative powers in the concurrent field, the Governor-General should be given guidance in his Instrument of Instructions as to the manner in which he is to exercise the discretion which the White Paper proposes to vest in him in relation to matters arising in the concurrent field.

Proposal that Acts should not be open to challenge after a specific period.

235. We observe with interest a proposal in the White Paper that, in order to minimize uncertainties of law and opportunities for litigation, provision should be made for limiting the period within which the validity of an Act may be called in question on the ground that it was not within the competence of the Legislature which enacted it.[1] We know of no precedent for a provision of this kind, though there are enactments in this country which make certain forms of subordinate or delegated legislation unchallengeable in the Courts

after a specified period. We are not disposed to reject it on that account; but, if it is adopted, we think that the period of limitation should be adequate and not less than five years.

The legislative relations between the Federal Legislature and the States.

236. Our observations have been hitherto directed solely to the legislative relations between the Federation and the Provinces. The relations between the Federation and the States in this sphere will not, and cannot, be the same. The effect of the proposals in the White Paper is that, while every Act of the Federal Legislature regulating any subject which has been accepted by a State as a federal subject will apply *proprio vigore* in that State as they will apply in a Province, a duty identical with that imposed upon

[1] White Paper, Proposal 118

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Provincial Governments being imposed upon the Ruler to secure that due effect is given in his territories to its provisions, yet this jurisdiction of the Federal Legislature in the States will not be exclusive. It will be competent for the States to exercise their existing powers of legislation in relation to such a subject, with the proviso that, in case of conflict between a State law and a Federal law on a subject accepted by the State as federal, the latter will prevail. We understand that the States, who are free agents in this respect are likely in the first instance to take their stand upon the Federal List proper and to accept the jurisdiction of the Federal Legislature in nothing which is outside the boundaries of that List; but we hope that in course of time they may be willing to extend their accessions at least to certain of the items, such as Bankruptcy and Insolvency, in the Concurrent List.

Formal changes in the revised Lists.

237. We desire to draw attention to certain points in connection with the revised Lists of Subjects. We may observe in the first place that certain of the entries in List I as it appears in the White Paper are so framed as to provide for variation of treatment in relation to the States. The revised List is, however, framed in terms which are appropriate to India as a whole, and makes no attempt to meet the case of States which might not be prepared to accept the whole subject without variation. This we are satisfied is the more convenient course, the natural medium for recording any variation from the general content of a federal subject, whether in respect of the acceding States in general or of an individual State, being each Ruler's Instrument of Accession. Another general principle which has been observed in revising the Lists and which has involved a number of minor modifications is the desirability of defining every entry in terms appropriate to a legislative power and of omitting all entries which are in essence descriptive of executive power. Such expressions as "control" and "regulation" have therefore been avoided; and we assume that the draftsman of the Constitution Bill will find it necessary to define in some appropriate manner, elsewhere in the Bill, the scope of the executive or administrative authority of the Federal and of the Provincial Governments respectively. **In any case we recommend, in consonance with what we have said in earlier paragraphs, that the Act should contain an express provision declaring the administration of subjects in List I to be (subject to the right of the Federal Legislature to devolve any administrative powers for the purpose upon the Provincial Governments) a federal, and the administration of subjects in Lists II and III a provincial, function.**

Alterations suggested in the entries relating to the defence of India

238. The revised Lists also contain a number of changes of substance. Apart from a considerable revision of the language of the first five entries of List I as they appear in the White Paper which collectively define the ambit of the reserved subject of Defence, the first entry "the common defence of India in time of an

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emergency declared by the Governor-General" has been omitted entirely. The intention of this item was, we understand, to give the Federal Legislature (and in consequence the Governor-General for the purposes of his personal legislative power) extensive powers on the lines of the English Defence of the Realm Act. We fully agree that it is essential that such a power should be vested in the Federal authorities, but we are of opinion that it should not be left to be deduced from a schedule of legislative powers but should be the subject of an express provision in the body of the Act. We are informed that it was only by a majority of one that five Judges of the High Court of Australia decided that the power to legislate for "defence" in the Commonwealth Constitution Act justified legislation on the lines of the Defence of the Realm Act; and the provision which we recommend in order to place this vital matter beyond doubt should make it clear that the emergency power in question is not limited to 'defence' in the sense of repelling external aggression, but that it covers internal disturbance also, and that where an emergency has been declared by the Governor-General the Federal Legislature may make on any subject laws which will override any laws which conflict with them, the Governor-General's personal legislative power being of course co-extensive in this respect with the power of the Federal Legislature. As an additional safeguard we would require that every proposal for legislation in the exercise of this power should be subject to the previous consent of the Governor-General. We recognise that the inclusion of internal disturbance (which should be defined in terms which will ensure that for this purpose it must be comparable in gravity to the repelling of external aggression) among the circumstances which in an emergency will enable the Governor-General to confer upon himself, or upon the Federal Legislature as the case may be, the power to invade the exclusively provincial sphere and to override provincial legislation within that sphere may be criticised as a derogation from the general plan of Provincial Autonomy which we advocate; but in the absence of such a power we could not regard the Governor-General as adequately armed to discharge the ultimate responsibility which rests upon him for the peace and tranquillity of the whole of India.

Other alterations in the Lists

239. It would extend this chapter to an unreasonable length if we were to set out in detail all the changes which a revision of the three Lists has involved. We are the less willing to do so because we recognise that the revised Lists themselves will require further expert scrutiny before they are finally submitted to Parliament as part of the legislative proposals of His Majesty's Government. We think, however, that if the revised lists are compared with the Lists in the White Paper, such changes as have been made in addition to those already mentioned will, for the most part, be found to speak for themselves.

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Existing laws

240. We assume that there will be a provision in the Constitution Act continuing in force (until amended hereafter) the whole body of

existing Indian law. But it will clearly be necessary before the Act comes into force to redistribute all powers conferred by that law so as to make them conform to the distribution of powers effected by the Constitution Act.

THE REVISED LISTS

(The unbracketed figures represent the entries in the Lists set out in the White Paper, the figures in brackets represent the order in which the revised entries should be shown).

List I (Federal)

Item		
1		Omitted for reasons given above.
2	(1)	His Majesty's naval, military and air forces in India and any other armed force raised in India (other than military and armed police maintained by Provincial Governments and armed forces maintained by the Rulers of Indian States), including the employment of those forces for the protection of the Provinces against internal disturbance and for the execution and maintenance of the laws of the Federation and the Provinces.
3	(2)	His Majesty's naval, military and air force works.
4	(3)	Local self-government in cantonment areas and the regulation therein of house accommodation.
5		Omitted—has been combined with item 2.
6	(46)	The Benares Hindu University and the Aligarh Muslim University.
7	(47)	Ecclesiastical affairs, including European cemeteries.
8	(4)	External affairs, including international agreements, but with regard to future agreements relating to subjects within the exclusive jurisdiction of a unit, only so far as they have been made with the previous concurrence of that unit.
	(5)	Emigration from and immigration into India and inter-provincial migration, including in relation thereto regulation of foreigners in India.
10	(6)	Pilgrimages beyond India.
11A	(7)	Extradition.
11B	(8)	Fugitive offenders.

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Item		
12	(9)	(*i*) Construction of railways other than minor railways. (*ii*) Regulation of federal railways and regulation of other railways in respect of— (*a*) maximum and minimum rates and fares; (*b*) terminals. (*c*) safety; (*d*) routeing and interchangeability of traffic: (*e*) responsibility as carriers. (Definitions (to be inserted in the Act): "Railways" includes tramways. "Light and feeder railway" means a railway not in physical connection with or of the same gauge as an adjacent railway extending beyond a single unit. "Minor railways" means light and feeder railways wholly within a unit. "Federal railways" includes all railways other than minor railways and railways owned by a State and managed by or on behalf of the Ruler of that State.)

13 (10) Air nagivation and aircraft, including the regulation of aerodromes.
14 (11) Inland waterways passing through two or more units, including shipping and navigation thereon as regards mechanically propelled vessels, but not including water supplies, irrigation, canals, drainage, embankments, water storage or water power.
15 (12) Maritime shipping and navigation, including carriage of goods by sea.
16 (13) Regulation of fisheries beyond territorial waters.
17 Omitted—has been combined with item 14.
18 (14) Lighthouses (including their approaches), beacons, lightships and buoys.
19 (15) Port quarantine and marine hospitals.
20 (16) Declaration and delimitation of major ports and constitution and powers of Port Authorities in such posts.
21 (17) Postal, telegraphic, telephone, wireless (including broadcasting) and other like services and control of wireless.
22 (18) Currency, coinage and legal tender.
23 (19) Public debt of the Federation.
24 (20) Post Office Savings Bank.
25 (21) [Incorporation and regulation of] Corporations for the purposes of the subjects in this list; Corporations having objects not confined to one unit; Banking, Insurance, Financial and Trading Corporations not being Co-operative Societies.

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Item
26 (22) Development of industries in cases where such development is declared by or under federal law to be expedient in the public interest.
27 (23) Cultivation and manufacture of opium; sale of opium for export.
28A (24) Possession, storage and transport of petroleum.
28B (25) Explosives.
29 (26) Arms and ammunition.
30 (27) Copyright, inventions, designs, trade marks and merchandise marks.
31 Transferred to List III.
32 (29) Cheques, bills of exchange, promissory notes and other like instruments.
33 Omitted—see "Regulation of mechanically propelled vehicles" in List III.
34 (32) Import and export of commodities across the customs frontiers as defined by the Federal Legislature; duties of customs.
35 (48) Salt.
36 (49) Duties of excise on the manufacture and production of tobacco and other articles except—
(i) potable alcoholic liquors;
(ii) toilet and medicinal preparations containing alcohol, Indian hemp, opium or other drugs or narcotics;
(iii) opium, Indian hemp, and other drugs and narcotics.
37 (50) Taxes on the capital and the income (other than the agricultural capital and income) of companies.
38 (33) Geological Survey of India.
39 (34) Botanical Survey of India.

40 (36) Meteorology.

41A (37) Census.

41B (38) Statistics for the purposes of subjects in this List.

42 (39) Federal Agencies and Institutes for Research and for professional and technical training or promotion of special studies.

43 (40) The Imperial Library, Indian Museum, Imperial War Museum, Victoria Memorial and any similar institution controlled and financed by the Federal Government.

44 (41) Pensions payable by the Federal Government or out of federal revenues.

45 (42) Federal Services and Federal Public Service Commission.

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Item

46 (43) Lands and buildings in possession of the Federal Government so far as they are not affected by provincial legislation or are exempted by Federal legislation from the operation of Provincial legislation.

47 (44) Offences against laws on subjects in this List.

48 Omitted as unlikely to be required by the terms of the Act.

49 (51) Taxes on other incomes (other than agricultural income), but subject to the power of the Provinces to impose surcharges.

50 (52) Duties in respect of succession to property other than land.

51 (53) Taxes on mineral rights and on personal capital other than land.

52 (54) Terminal taxes on railway, tramway or air-borne goods and passengers and taxes on railway or tramway fares and freights.

53 (30) Fixation of rates of stamp duty in respect of bills of exchange, bills of lading, cheques, letters of credit, promissory notes, policies of insurance, proxies and receipts.

54 Omitted as covered by the substantive provisions proposed with regard to legislation on residual subjects.

55 (55) Naturalisation.

56 (56) Conduct of elections to the Federal Legislature, including election offences and disputed elections.

57 (31) Standards of weight.

58 (57) Chief Commissioners' Provinces.

59 (58) Survey of India.

60 (59) Archæology, including ancient and historical monuments.

61 (35) Zoological Survey.

62 Re-drafted and transferred to List III.

63 (60) Jurisdiction, powers and authority of all Courts, except the Federal Court and the Supreme Court, with respect to the subjects in this List.

64 Omitted.

New Items

(*a*) (28) Insurance other than State insurance.

(*b*) (61) The extension of the powers and jurisdiction of officers and men of the Provincial Police Forces to areas outside the Province.

(*c*) (45) Imposition of fees, taxes, cesses and duties in connection with the subjects in this List, but not including fees to be paid in Courts.

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LIST II (PROVINCIAL)

Item

1 (1) Local self-government, including matters relating to the constitution and powers of municipal corporations, improvement trusts, district boards, mining settlements and other local authorities in the Province established for the purpose of local self-government and village admin stration.

2 (2) Hospitals and dispensaries, charities and charitable institutions in and for the Province.

3 (3) Public health and sanitation.

4 (16) Pilgrimages other than pilgrimages beyond India.

5 (5) Education.

6 (6) Public works lands and buildings vested in or in the possession of the Crown for the purposes of the Province

7 (7) Compulsory acquisition of land

8 (9) Roads, bridges, ferries, tunnels, ropeways, causeways, and other means of communication.

9 (8) Minor railways

10 Included in item 9

11 (11) Water supplies, irrigation and canals, drainage and embankments, water storage and water power.

12 (22) Land revenue, including

(a) assessment and collection of revenue;

(b) maintenance of land records, survey for revenue purposes and records of rights;

(c) alienation of land revenue

13 (23) Land tenures, including transfer and devolution of agricultural land; easements

14 (24) Relations of landlords and tenants and collection of rents

15 (25) Courts of Wards and encumbered estates.

16 (26) Land improvement and agricultural loans.

17 (27) Colonization.

18 (28) Pensions payable by the Provincial Government or out of Provincial revenues.

19 Included in item 13

20 (29) Agriculture, including research institutes, experimental and demonstration farms, introduction of improved methods, agricultural education, protection against destructive pests and prevention of plant diseases.

21 (30) Veterinary department, veterinary training, improvement of stock and prevention of animal diseases.

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Item

22 (13) Fisheries.

23 (34) Co-operative societies.

24 (35) [Incorporation and regulation of] Corporations other than those mentioned in List I.

24A (36) Trading, literary, scientific, religious and other societies and associations not being corporations.

25 (17) Forests.

26 (18) Production, manufacture, possession, transport, purchase and sale of liquors, opium and other drugs and narcotics not covered by item 19 of List III.

27	(19)	Duties of excise on the manufacture and production of— (i) potable alcoholic liquors; (ii) toilet and medicinal preparations containing alcohol, Indian hemp, opium or other drugs and narcotics; (iii) opium, narcotics, hemp, and other drugs.
28	(39)	Administration of justice, including the constitution and organisation of all Courts and fees to be paid therein, except the Federal Court and the Supreme Court.
29	(40)	Procedure in Rent and Revenue Courts.
30	(41)	Jurisdiction, powers and authority of all Courts, except the Federal Court and the Supreme Court, with respect to subjects in this List.
31		Transferred to List III.
32	(42)	Fixing of rates of stamp duty in respect of instruments other than those mentioned in item 53 of List I.
33		Transferred to List III.
34	(37)	Registration of births and deaths
35	(38)	Religious and charitable endowments
36	(43)	Mines and the development of mineral resources in the Province.
37	(44)	Control of the production supply and distribution of commodities.
38	(45)	Development of industries, except in so far as they are covered by item No. 26 in List I
39		Transferred to List III
40		Transferred to List III
41		Transferred to List III
42	(46)	Gas.
43	(47)	Smoke nuisances
44	(48)	Adulteration of foodstuffs and other articles
45	(49)	Weights and measures except standards of weight.
46	(50)	Trade and commerce within the Province
47		Transferred to List III

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Item		
48	(12)	Ports except in so far as they are covered by item 20 of List I
49	(10)	Inland waterways being wholly within a Province, including shipping and navigation thereon
50	(52)	Police (including railway and village police).
51	(53)	Betting and gambling except State lotteries.
52	(54)	Prevention of cruelty to animals.
53	(55)	Protection of wild birds and wild animals
54	(20)	Vehicles other than mechanically propelled vehicles.
55	(21)	Dramatic performances and cinemas except sanction of cinematograph films for exhibition.
56	(56)	Coroners.
57	(57)	Criminal tribes.
58		Transferred to List III.
59	(58)	Prisons, reformatories, Borstal institutions and other institutions of a like nature.
60	(59)	Prisoners.
61	(60)	Pounds and the prevention of cattle trespass.
62	(61)	Treasure trove.
63	(62)	Libraries, museums and other similar institutions, controlled and financed by the Provincial Government.

64 (63) Conduct of elections to the Provincial Legislature, including election offences and disputed elections.

65 (64) Public Services in the Province and the Provincial Public Service Commission.

66 (65) Surcharges within such limits as may be prescribed by Order in Council on federal rates of income tax and supertax, to be assessed on the incomes of persons (not companies) resident in the Province.

67 (66) Imposition of fees, taxes, cesses, or duties in connection with the subjects in this List and of taxation in any of the forms specified in the annexure hereto

68A (31) Relief of the poor.

68B (32) Unemployment.

69 (33) Health insurance and invalid and old-age pensions.

70 (51) Money-lenders.

71 (4) Burials and burial grounds other than European cemeteries.

72 (67) Offences against laws on subjects in this List.

73 Omitted.

74 Omitted.

75 (68) Statistics for the purpose of the subjects in this List.

76 (70) Generally any matter of a merely local or private nature in the Province.

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Item

77 Omitted

New items

(a) (14) Innkeepers.

(b) (15) Markets and fairs.

(c) (69) Public debt of the Province.

ANNEXURE

Item

1 to 5 Omitted already covered by the entries in List II—*see* item 67

6 (1) Capitation taxes.

7 (2) Duties in respect of succession to land.

8 (3) Taxes on lands and buildings, animals, boats, hearths, and windows; sumptuary taxes and taxes on luxuries.

9 (4) Taxes on trades, professions, callings and employments.

10 (5) Taxes on consumption; cesses on the entry of goods into a local area; taxes on sale of commodities and on turn-over; taxes on advertisements.

11 (6) Taxes on agricultural incomes.

12 Omitted— *see* item 32 of List II.

13 (7) Taxes on entertainments, amusements, betting and gambling.

LIST III (CONCURRENT)

1 (1) Jurisdiction, powers and authority of all Courts, except the Federal Court and the Supreme Court, with respect to the subjects in this List.

2 (2) Civil Procedure, including the law of Limitation and all matters now covered by the Code of Civil Procedure.

3 (3) Evidence and oaths.

4 (4) Marriage and divorce.

5	(5)	Age of majority and custody and guardianship of infants.
6	(6)	Adoption.
7	(7)	Registration of deeds and documents.
8A	(8)	The law relating to: (a) Wills, intestacy and succession save as regards agricultural land. (b) Transfer of property (other than agricultural land). (c) Trusts and trustees. (d) Contracts, including partnership. (e) Powers of Attorney. (f) Carriers. (g) Arbitration.

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Item		
8B	(9)	Bankruptcy and insolvency.
9	(13)	Crimes other than offences against laws on subjects in List I or List II.
10	(14)	Criminal Procedure, including all matters now covered by the Indian Code of Criminal Procedure.
11	(17)	Newspapers, books and printing presses.
12	(18)	Lunacy and lunatic asylums.
13	(19)	Regulation of the working of mines, but not including mineral development.
14	(20)	Factories.
15	(21)	Employers' liability and workmen's compensation.
16	(22)	Trade Unions.
17	(23)	Welfare of labour, including, in connection therewith, provident funds.
18	(24)	Industrial and labour disputes.
19	(27)	Poisons and dangerous drugs.
20	(32)	The recovery in a Province of public demands (including arrears of land revenue and sums recoverable as such) arising outside that Province.
21	(31)	Legal, medical and other professions.
22		Transferred to List I.
23		Omitted.

New Items		
(a)	(28)	The prevention of the extension from one Province to another of infectious and contagious diseases or pests affecting men, animals or plants.
(b)	(12)	Administrators-General and official trustees.
(c)	(26)	Electricity.
(d)	(25)	Boilers.
(e)	(16)	European vagrancy.
	(29)	The sanctioning of cinematograph films for exhibition.
(g)	(15)	Inter-provincial removal of prisoners with the consent of the Province.
(h)	(30)	Mechanically propelled vehicles.
(i)	(33)	The recognition of laws, public Acts, records and judicial proceedings.
(j)	(10)	Law of non-judicial stamps, but not including the fixation of rates of duty.
(k)	(11)	Actionable wrongs not relating to subjects in List I or List II.
(l)	(34)	Imposition of fees, taxes, cesses and duties in connection with the subjects in this List, but not including fees to be paid in Courts.
(m)	(35)	Statistics for the purposes of the subjects in this List.

(2) Federal Finance.

Two-fold division of subject.

241. This subject falls naturally into two parts: first, the allocation of the sources of revenue between the Federation and the Units and second, the additional expenditure involved by the proposed constitutional changes. We have had the advantage of a comprehensive and objective review of the facts and figures relating to both parts of the subject by Sir Malcolm Hailey, which has been printed among the Records of the Committee. We reproduce here from this document the figures of estimated revenue and expenditure of the Central and Provincial Governments for 1933-34, in order that it may be possible to view in proper perspective the various questions dealt with below.

Budget Estimates of Revenue and Expenditure of Central and Provincial Governments in 1933-34.

Central Revenue.

	Rs. Crores.	= £. millions.
Customs (net)	50·27	37·70
Income taxes (net)	17·21	12·91
Salt (net)	7·60	5·70
Other taxes (net)	0·60	0·45
Net tax revenue	75·68	56·76
Opium (net)	0·63	0·47
Railways (net)	Nil	Nil
Currency and Mint (net)	1·11	0·83
Payments from States	0·74	0·56
Total	78·16	58·62

Provincial Revenues.

	Rs. Crores.	= £. millions.
Land Revenue	35·29	26·47
Excise	14·85	11·14
Stamps	12·40	9·30
Registration	1·14	0·85
Scheduled Taxes	0·43	0·32
Total tax revenue	64·11	48·08
Forests (net)	0·69	0·52
Irrigation (net)	0·49	0·37
Miscellaneous	11·32	8·49
N.W.F.P. subvention	1·00	0·75
Total	77·61	58·21

Central Expenditure.

	Rs. Crores.	= £. millions.
Posts and Telegraphs (net)	0·61	0·46
Debt:		
Interest (net)	8·97	6·73
Reduction of Debt	6·89	5·17
Civil Administration (net).	8·76	6·57
Pensions (net)	3·02	2·26
Civil Works (net)	1·72	1·29
Defence Services (net)	46·20	34·65
Subvention to N.W.F.P.	1·00	0·75
Miscellaneous (net)	0·74	0·55
Total	77·91	58·43

Provincial Expenditure.

	Rs. Crores.	= £. millions.
Land Revenue and General Administration	14·86	11·14
Police	12·38	9·28
Jails and Justice	7·66	5·75
Debt	4·21	3·16
Pensions	5·08	3·81
Education	11·80	8·85
Medical and Public Health	5·23	3·92
Agriculture and Industries	2·89	2·17
Civil Works	8·33	6·25
Miscellaneous	7·34	5·51
Total	79·78	59·84

Allocation of Sources of Revenue between the Federation and the Federal Units.

The allocation of resources a problem common to all Federations

242. In any Federation the problem of the allocation of resources is necessarily one of difficulty, since two different authorities (the Government of the Federation and the Government of the Unit), each with independent powers, are raising money from the same body of taxpayers. The constitutional problem is simplified if it is possible to allocate separate fields of taxation to the two authorities,

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but the revenues derived from such a division, even where it is practicable, may not fit the economic and financial requirements of each party, neither do these requirements necessarily continue to bear a constant relation to each other, and yet it is difficult to devise a variable allocation of resources. So far as we are aware no entirely satisfactory solution of this problem has yet been found in any federal system.

The existing system in British India.

213. So far as British India is concerned the problem is not a new one. Though the separation of the resources of the Government of India and the Provincial Governments under the existing Constitution is in legal form merely an act of statutory devolution which can be varied by the Government of India and Parliament at any time, nevertheless from the practical financial point of view there is already in existence in British India a federal system of finance. This system is fully described in the Report of the Statutory Commission. Determined to avoid the inconveniences which had already been experienced from a system of "doles" from the Centre to the Provinces or from a system of heads of revenue shared between the two Parties, the authors of the present Constitution adopted an almost completely rigid separation of the sources of revenue assigned respectively to the Centre and to the Provinces. From the point of view of expenditure the essentials of the position are (and no change in this respect is to be expected) that the Provinces have an almost inexhaustible field for the development of social services, while the demands upon the Centre, except in time of war or acute frontier trouble, are more constant in character. The Provinces have rarely had means adequate for a full development of their social needs, while the Centre, with taxation at a normal level, has no greater margin than is requisite in view of the vital necessity for maintaining unimpaired both the efficiency of the defence services and the credit of the Government of India which rests fundamentally upon the credit of India as a whole, Centre and Provinces together.

Its results.

214. Both Centre and Provinces have, however, been severely affected by the world economic depression and the financial position of both has been severely strained. Rates of taxation have had to be increased in all directions and every department of government has had to submit to retrenchment, but the way in which the strain has been borne is a tribute to the essential soundness of the present financial system. Past experience of the existing system leads to two conclusions on which there is general agreement: (a) that there are a few Provinces where the available sources of revenue are never likely to be sufficient to meet any reasonable standard of expenditure, and (b) that the existing division of heads of revenue between Centre and Provinces leaves the Centre with an undue share of those heads which respond most readily to an improvement in economic conditions. This has led to a very strong claim by the provinces for a substantial share in the taxes on income. This claim, as might be expected, has been pressed most vigorously

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by the more industrialised Provinces like Bombay and Bengal, especially as their relative position was not improved by the abolition of the contributions which at the date of the establishment of the present constitution were paid by the Provinces to the Centre and were relatively larger in the case of the more completely agricultural Provinces.

Effect of entry of the States into Federation.

245. The subjects which will be directly administered and paid for by the Centre and by the British India Provinces respectively will not, if our recommendations are accepted, be materially changed under the new Constitution, and, but for the entry of the States into the Federation, the problem of the allocation of resources could be resolved by reviewing and overhauling the existing system. The entry of the States however removes one very serious problem. The incidence of the sea customs duties is upon the consumers in the Indian States and the consumers in British India alike; the States have no say under the present system in the fixing of the tariff. With the continued rise for many years past in the level of the import duties, the States have pressed more and more for the allocation to them of a share in the proceeds of these duties. There is of course another side to the picture in the increased cost of the defence services, which is for the benefit of the States as well as for British India; but, nevertheless, the question was becoming one of formidable difficulty, and was recognised as such in the report of the Indian States Committee of 1928-29, presided over by Sir Harcourt Butler. With their entry into the Federation the States will take part in the determination of the Indian tariff, and their claim to a separate share in the proceeds disappears. But if their entry removes this major problem, it introduces another, though less formidable, complication. It is obviously desirable that, so far as possible, all the Federal Units should contribute to the resources of the Federation on a similar basis. Broadly speaking, no difficulty arises in the sphere of indirect taxation which constitutes some four-fifths of the Central revenues; the difficulty arises over direct taxation, that is to say, taxes on income. If the Federation retains the whole of taxes on income, as the Centre does at present, it would be natural to require that the subjects of the federating States should also pay income tax and that the proceeds (or part thereof) should be made available for the federal fisc. The States have made it plain that they are not prepared to adopt any plan of this kind.

Plan suggested for allocation of taxes on income.

246. It will be seen therefore, from two different lines of approach, that the most difficult question that arises in the problem of allocation is that of the treatment of taxes on income. In earlier discussions at the Round Table Conference a plan was evolved by which in the main, all the taxes on income were to be assigned to the Provinces, the resulting deficit in the Federal Budget being made up for the time being by contributions from the Provinces, which it was hoped could be gradually reduced over a prescribed period of years and would finally disappear, as new federal resources

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were developed. The position which would be likely to result from a plan of this kind was examined in India in 1932 by the Federal Finance Committee presided over by one of our own number. The Committee declared itself unable to assume the abolition of such provincial contributions within any period that could be foreseen; and this conclusion, and the objections felt to the reintroduction of provincial contributions experience of which had not been too fortunate under the existing Constitution, led to the abandonment the Government of this scheme.

Difficulty of determining equitable basis for taxes on income between Federation and Provinces.

247. There is little doubt that from the economic point of view it is desirable that the Provinces should, if it is practicable, share in the proceeds of taxes on income. There has been considerable discussion, since the abandonment of the plan just described, as to the amount of this share. If the problem is considered merely as one of striking a theoretically correct balance between the States and British India, on the assumption that the States will not be

subject to the federal income tax, there are many factors to be taken into account. Some of the federal expenditure will be for British India purposes only, such as subsidies to deficit British India Provinces; there has also been controversy on the question whether the service of part of the pre-Federation debt should not fall on British India alone; and further, part of the proceeds of taxes on income is derived from subjects of Indian States, e.g., holders of Indian Government securities and shareholders in British India Companies. The States also make a contribution in kind to defence of which there is no counterpart in the Provinces of British India. It seems to us both unnecessary and undesirable to attempt any accurate balancing of these factors or to determine on a basis of this kind what share of the income tax could equitably be retained by the Federation. It will be wiser to base the division upon the financial and economic needs of the Federation and the Units. Nor is it likely that any disequilibrium between British India and the States that might result from such a method of treatment would be of a serious character. The difficulty is rather that the Federal Centre is unlikely, at least for some time to come, to be able to spare much, if anything, by way of fresh resources for the Provinces, apart from the pressing needs of deficit areas to which we refer below. But it is equally undesirable to leave the Provinces with no indication of the share which they may ultimately expect when the strain of present economic difficulties becomes less severe. It is also necessary that any transfer should be gradual, if dislocation of both federal and provincial budgets is to be avoided.

The White Paper proposal.

248. The solution of this problem proposed in the White Paper may be briefly described as follows[1]: Taxes on income derived from federal sources, *i.e.*, federal areas or emoluments of federal officers, will be permanently assigned to the Federation. Of the yield of the rest

[1] White Paper, Proposals 139, 141

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of the normal taxes on income (except the corporation tax referred to later) a specified percentage (to be fixed by Order in Council at the last possible moment) is to be assigned to the Provinces. This percentage is to be not less than 50 per cent. nor more than 75 per cent. Out of the sum so assigned to the Provinces the Federal Government will be entitled to retain an amount which will remain constant for three years and will thereafter be reduced gradually to zero over a further period of seven years, power being reserved to the Governor-General to suspend these reductions if circumstances made it necessary to do so. The Federal Government and Legislature would, in addition, be empowered to impose a surcharge on taxes on income, the proceeds of which would be devoted solely to federal purposes. We understand it to be implicit in this proposal that the power should only be exercisable in times of serious financial stress; and when such surcharges are in operation the States would make contributions to the federal fisc, assessed on a predetermined basis, so as to make them a fair counterpart of the yield of the surcharges from British India. The conditions under which the States are ready to accept this proposal were explained in a statement made to us on behalf of the Indian States Delegates[1]; and we agree that conditions of the kind mentioned are not unreasonable.

Criticisms of the proposal.

249. Some obvious criticisms can be made on this plan for dealing with the taxes on income. If a specified percentage of the yield of taxes on income is to be assigned to the Provinces, any alteration in the rate of tax will affect both parties (Federation and Provinces),

though there may be only one which desires either an increase or a diminution in the yield It may be suggested that the yield of a given basic rate should be assigned either to the Federation or the Provinces the remainder going to the other We are, however, informed that a plan of this kind would not fit well into the Indian income tax system, which differs considerably from the British It is also said that the anomaly is more apparent than real, since, at least for many years to come, both Federation and Provinces will need as much money as can be obtained from taxes on income, and the fixing of the rate is likely to depend more on taxable capacity than on the precise budgetary position at any given moment of either.

Modifications suggested

250 We agree that the percentage which is ultimately to be attained should be fixed as late as possible by Order in Council; but we see little or no prospect of the possibility of fixing a higher percentage than 50 per cent, even as an ultimate objective and there is an obvious difficulty in prescribing in advance, as the White Paper does, a time-table for the process of transfer, even though power is reserved to the Governor-General to suspend the process (or, as we assume, its initiation) The facts discussed below indicate that for some time to come the Centre is unlikely to be able to do much

[1] Minutes of Evidence Q 502

more than find the funds necessary for the deficit Provinces, and that an early distribution of any substantial part of the taxes on income is improbable We think that it would be an improvement if the periods of three and seven years instead of being fixed by statute, were controlled by Order in Council (the Governor-General's power to suspend being of course retained)

Suggestion of British India Delegation

251 The Joint Memorandum of the British India Delegation recognises the difficulty of predetermining the various factors in this problem, and recommends an enquiry after three years The Delegation do not state by what authority they consider that any decision consequent upon it should be taken, but perhaps intend that the decision should rest with the Federal Government This does not seem fair to the Provinces

Objections of Bengal and Bombay

252 A further objection has been taken by some witnesses that it is not fair to Provinces such as Bengal and Bombay that the transfer of the provincial share of taxes on income should be delayed, and that so long as the Federation cannot spare the money there should be some equitable form of contribution to the Federation from all the Provinces alike But any plan of this kind must inevitably lead in effect to a return to a system of provincial contributions which has been explored and abandoned We do not recommend such a course

Scheme of White Paper generally recommended

253 It must be admitted that the White Paper proposals for dealing with taxes on income present many difficulties, but the problem does not admit of any facile solution, and except for the suggestion made above, we do not ourselves feel able to propose an improved scheme We should add that the actual method of distribution between the Provinces of any share in the taxes on income is a technical problem of some complexity The report of the Federal Finance Committee suggests a useful line of approach, and we do not think that it is part of our duty to suggest a detailed scheme.

Corporation Tax

254. There are two further questions connected with taxes on income on which some comment is desirable. The White Paper proposes to treat specially the taxes on the income or capital of companies.[1]

We understand this to refer to taxes of the nature of the existing Corporation Tax, which is a supertax on the profits of companies. It is proposed that the Federation should retain the yield of this tax and that after ten years the tax should be extended to the States, a right being reserved to any State which prefers that companies subject to the law of the State should not be directly taxed to pay itself to the federal fisc an equivalent lump sum contribution. We approve this proposal, although the details of the arrangement with the States seem likely to be complex.

White Paper Proposal 14?

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Provincial surcharges.

255 The White Paper also proposes that Provincial Legislature should be empowered to impose a surcharge not exceeding 12½ per cent on the taxes levied on the personal income of persons resident in the Province, and to retain the proceeds for its own purposes [1] There is, we understand, a considerable difference of opinion in India on this suggestion It might lead to differential rates of tax on the inhabitants of different Provinces, and although a limit would be set to the possible differences, this is in itself undesirable The rates of taxes on income are likely also to be sufficiently high to make it difficult to increase the rate by way of surcharge, and to give the Provinces such a power might well nullity the emergency power of imposing a surcharge which we think it essential that the Federation should possess On the other hand, the proposal would undoubtedly give an elasticity to provincial revenues, which would be very desirable until the transfer of their share of the income tax is completed But after balancing the considerations on either side, we are on the whole not in favour of it

The deficit Provinces

256 We come now to the question of deficit Provinces The problem of Sind differs from that of the others, since it is not expected that this Province will permanently remain a deficit area Other Provinces, notably Orissa and Assam, are, so far as can be foreseen, areas in which there is no likelihood that revenue and expenditure can be made to balance under the general scheme of allocation of resources, present or proposed, and in these cases it is intended that there shall be a fixed subvention from the federal revenues [2] Although it will no doubt be necessary to make it constitutionally possible after a period of years to vary the amount we understand that the intention is, so far as possible, to make it a permanent and stable contribution and thus to avoid the danger that the Province instead of developing its resources, may be tempted to rely on expectations of extended federal assistance and we agree It is proposed that the Provinces to be assisted and the amounts of the subvention should be determined after further expert enquiry at as late a date as possible The case of the North West Frontier Province stands on a different footing This Province is at present in receipt of a contribution of a crore of rupees (75)[3] annually from the Centre, the need for which arises mainly from special expenditure in the Province due to strategic considerations, though not strictly to be classified as Defence expenditure In this case it seems essential that there should be power to review the amount from time to time, though here also too frequent changes would be open to the objection to which we have referred above

[1] White Paper Intro , para 57 , Appendix VI, List II (60)
[2] White Paper, Proposal 144
[3] The figure in brackets here and elsewhere in this section denotes the equivalent figure in millions sterling at 1s 6d the rupee

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Excise and export duties.

257. The White Paper proposals introduce two new features into the plan for the division of resources apart from the arrangements discussed above. Subject to the approval of the Governor-General in his discretion, power is given to the Federation to allot to the Federal Units (and not merely to the Provinces) a share of the yield of salt duties and of excise duties, other than those specifically assigned to the Provinces, and also of export duties.[1] We understand that the main purpose of this provision in relation to salt duties and excises is to make the financial scheme more elastic in the interest of future developments, and it is very probable that a power to assign a share to the Units may facilitate the introduction of a new tax. With this desire to avoid too great a rigidity in the plan of allocation we agree. The particular instance of export duties requires special mention, since it is proposed in the case of the jute export duty that it should be obligatory to assign at least one-half of the proceeds to the producing units. We understand that this proposal is made largely in the interests of Bengal, which has undoubtedly suffered severely under the existing plan of allocation; and the circumstances are so special as, in our opinion, to justify special treatment.

Terminal and other taxes.

258. Another feature in the scheme is a category of taxes (of which railway terminal taxes, if imposed, would probably become by far the most important) in which the power to impose the tax is vested solely in the Federation, though the proceeds would be distributed to the Provinces, subject to the right of the Federation to impose a surcharge for federal purposes.[2] We can well understand that in cases where uniformity in the rate of tax, or central administration is essential, machinery of this kind may be desirable, even though no part of the proceeds is retained for the Centre.

Interest of the Provinces in the Federal budget

259. The fact that the Federal Units either will, or may, share in the yield from certain federal taxes implies that the Federal Budget cannot be the concern of the Federal Government and Legislature alone. This may result in some blurring of responsibility and from the point of view of constitutional principle is open to objection but we see no escape from it. In order to bring about mutual consultation between Federation and Units in matters of this kind, the White Paper proposes that federal legislation upon them should require the prior assent of the Governor-General to be given only after consultation with both the Federal and the Governments of the Units.[3] We are doubtful whether a statutory obligation to consult the Units may not give rise to difficulties, and we see some advantage in directing the Governor-General in his Instrument of Instructions to ascertain the view of the Units by the method which appears to him best suited to the circumstances of the

[1] White Paper, Proposal 137
[2] White Paper, Proposal 138
[3] White Paper, Proposal 140

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particular case. On the other hand, a suggestion has been made for an entirely different solution of the problem, and that all Central receipts which are to go in aid of provincial revenues should be paid into a special Provincial Fund to be administered for the benefit of the Provinces by the Governor-General on the advice of a statutory Inter-Provincial Council representing the Provincial Governments. We are disposed to think that this would tend to undermine the independence of the

Provinces, and the administration of such a fund would present erious difficulties. We prefer not to deal with the problem of distribution in this manner, and to leave the methods of consultation between Centre and the Units to be determined by convention and usage rather than by rigid statutory provisions.

Financial adjustments between the Federation and the States.

260. The entry of the States into Federation, apart from the major questions referred to above, involves some complicated financial adjustments, mainly in respect of tributes and ceded territories; but these, though of importance to individual States, do not fundamentally affect the federal finance scheme as a whole. They have been exhaustively examined in the Report of the Indian States Enquiry Committee, which was also presided over by one of our members. We do not think it necessary to review the intricate adjustments there discussed, and it is sufficient to say that we endorse the main principles on which the Report is based and in particular the gradual abolition over a period of years (corresponding to the period proposed for the assignment to the Provinces of a share of the taxes on income) of any contribution paid by a State to the Crown which is in excess of the value of the immunities which it enjoys.

States' maritime customs.

261. Of the problems discussed in the Indian States Enquiry Committee's Report, the most difficult and serious is that of the maritime States in relation to sea customs. The present position, which varies between one State and another, is fully explained in the Report; and we understand that at the moment questions of importance are at issue between the Government of India and some of these States on this subject. We think it most desirable that these difficulties should have been resolved before the Federation comes into being. The general principle which we should like to see applied in the case of the maritime States which have a right to levy sea customs is that they should be allowed to retain only so much of the customs duties which they collect as is properly attributable to dutiable goods consumed in their own State; but we recognise that treaty rights may not make it possible in all cases to attain this ideal. But if insistence upon treaty or other rights in any particular case makes such an arrangement (perhaps with certain adjustments or modification) impossible, then it seems to us that the question will have to be seriously considered whether the State could properly be admitted to the Federal system. It is

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unnecessary to emphasize the importance of securing that there is a genuine uniformity in the rates of customs duties levied respectively at State ports and at the ports of British India.

Borrowing powers.

262. Before leaving this part of the subject of federal finance, reference should be made to the arrangements proposed for the regulation and co-ordination of federal and provincial borrowing.[1] The proposals in the White Paper on the subject seem to us acceptable, subject to one additional provision. A Provincial Government will be empowered to borrow directly from the Federal Government, or itself to raise a loan, though the latter will require the sanction of the Federal Government if the Province is already in debt to the Centre. We think that this is right; but it puts great power in the hands of the Federal Ministry, who might, by refusing the application of a Province or by insisting upon unreasonable conditions, assume the right of controlling the general policy of a Province in a manner which we do not think was contemplated. In these circumstances, it seems to us that the ultimate decision whether consent

has been unreasonably withheld in any instance should rest with the Governor-General in his discretion.

The additional expenditure involved by the proposed constitutional changes

Additional cost of Federation.

263. We have been furnished with an estimate of the new overhead charges which would result from the adoption of the Constitution proposed in the White Paper; that is to say, the additional expenditure required by reason (*inter alia*) of an increase in the size of the Legislatures and electorates, or the establishment of the Federal Court. These would amount to ¾ crore (·56) per annum, attributable to the establishment of Provincial Autonomy, and another ¾ crore (·56) per annum, attributable to the establishment of the Federation. We understand that these would be the only fresh burdens imposed upon the taxpayers of India as a direct result of the constitutional changes. The amount, under present financial conditions, is by no means negligible, but is not of very serious dimensions. There are, however, apart from the new overhead charges, certain other factors affecting the financial position which it is necessary to pass in review. The most important of these is the separation of Burma: and although this will not in itself involve a financial loss to the taxpayers of India and of Burma considered as a whole, the revenues of India will suffer a loss estimated to be possibly as much as 3 crores (2·2) a year, less the yield of any revenue duties on imports from Burma which may be introduced from the date of separation.

Subventions to deficit Provinces: Sind.

264. The next most considerable adjustment is that due to the separation of Sind. It is estimated that there will be an initial deficit in Sind of about ¾ crore (·56) a year, but that this will gradually diminish and be ultimately extinguished over a period of

¹ White Paper, Proposals 148, 149.

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some fifteen years, by the end of which time it is believed that the agricultural developments connected with the Sukkur Barrage scheme will be complete. If Sind were not constituted a separate Province this deficit would fall to be met from Bombay revenues, except for a small sum of about 10 lakhs (·07), the estimated cost of new overhead charges (this sum is included in the total estimate of new overhead charges mentioned above). It is proposed that a subvention should be given from federal revenues to Sind, of a prescribed but gradually diminishing amount. Here again, except for the 10 lakhs already mentioned, there is no additional burden imposed upon the taxpayers of India as a whole, but the relief given to Bombay, which is by no means unneeded, will impose some additional strain on federal revenues.

Orissa.

265. The subventions to other deficit Provinces also react on federal finance, but we understand that the problem is one which it would have been necessary to face before long under the existing Constitution, since it is clearly impossible to allow the continued accumulation of deficits by a Province, if over a number of years it is beyond its power within the resources assigned to it to balance its expenditure and revenue. Special reference must be made to the case of Orissa. This will undoubtedly be a deficit area and will require a subvention of something like 30 lakhs (·22) a year; but of this only about 15 lakhs (·11) a year, which is the estimate for new overhead charges, involves any additional burden on federal revenues and has already been included in the total figure for new overhead charges referred to above. The balance would in effect have had

to be provided by subvention from the Centre even if a new Province of Orissa were not constituted. The existing Province of Bihar and Orissa is faced with serious financial difficulties, aggravated by the recent earthquake, and the separation of Orissa only means that the new Province will receive the subvention which would otherwise have come to it indirectly through the Government of Bihar and Orissa. It will be an advantage to the Government of Bihar to be free of the administration of a deficit area which is distinct from the rest of the Province, with which communication is difficult, and whose problems are different from those which confront Bihar.

Cost of adjustments with the States.

266. The factors above mentioned come into play on the inauguration of Provincial Autonomy. The only fresh factor, apart from the new overhead charges of ¾ crore (·56) a year, which is introduced by Federation itself is the proposed financial adjustment with the States to which we have already referred and which it is suggested shall be extended over a period of years. This will ultimately involve a net loss to federal revenues of something less than 1 crore (·75) per annum.

General conclusions

267. The general conclusion therefore is that though no formidable new financial burden would be thrown on the taxpayers of India as a whole as a direct result of the constitutional change proposed, the

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necessity for giving greater elasticity to provincial resources, the subventions to the deficit Provinces, and also the separation of Burma, will impose a further strain on the finances at the Centre. India is still suffering from the effects of the general financial depression, and the low level of agricultural prices has been and still is a very formidable problem. But the state of Indian finance reflects great credit on those responsible for its administration, and the storm is being weathered more successfully than in most other countries. Economic recovery would no doubt, as in the past, produce speedily a very marked improvement in the situation; but at the moment special emergency taxation and special economies are still in force, and little more can be done than make both ends meet, though a beginning has been made in the present year towards easing provincial difficulties by a central grant to the jute producing Provinces.

The financial situation in relation to constitutional changes

268. It has been argued in some quarters that constitutional change should be postponed until the financial horizon is clearer, but the additional difficulties attributable to the change (and such as they are they relate mainly to Provincial Autonomy and not to Federation) are but a small part of a financial problem which has in any event to be faced, and is, we hope and believe, in process of solution. No doubt before the new Constitution actually comes into operation His Majesty's Government will review the financial position and inform Parliament how the matter stands. It is suggested in the White Paper that at the last possible date there should be a financial enquiry for settling certain details, such as the amount of the subventions to the deficit Provinces.[1] This seems to us a suitable procedure, but we do not conceive, nor do we understand that it is intended, that any such expert body could be charged with the duty of deciding whether the position was such that the new Constitution could be inaugurated without thereby aggravating the financial difficulties to a dangerous extent. On this point, as we have said, Parliament must at the appropriate time receive a direct assurance from His Majesty's Government.

[1] White Paper, Introd., para. 60

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(3) The Indian Public Services

The Public Services under responsible government.

269. The problem of the Public Services in India and their future under a system of responsible government is one to which we have given prolonged and anxious consideration. The grant of responsible government to a British possession has indeed always been accompanied by conditions designed to protect the interests of those who have served the community under the old order and who may not desire to serve under the new; but if, as we believe, the men who are now giving service to India will still be willing to put their abilities and experience at her disposal and to co-operate with those who may be called on to guide her destinies hereafter, it is equally necessary that fair and just conditions should be secured to them. This does not imply any doubt or suspicion as to the treatment which they are likely to receive under the new Constitution; but, since in India the whole machinery of government depends so greatly upon the efficiency and contentment of the Public Services as a whole, especially during a period of transition, it is a matter in which no room should be left for doubt. It is not because he expects his house to be burned down that a prudent man insures against fire. He adopts an ordinary business precaution, and his action in doing so is not to be construed as a reflection either upon his neighbours' integrity or his own.

The British element in the Services.

270. The United Kingdom no less than India owes an incalculable debt to those who have given of their best in the Indian Public Services, and the obligation must be honoured to the full. But the question has another and scarcely less important aspect; for we are convinced that India for a long time to come will not be able to dispense with a strong British element in the Services, and the conditions of service must be such as to attract and hold the best type of man. So long as the British element is retained, Parliament, in the interests of India as well as of this country, may rightly require not only that the Services are given all reasonable security but that none is deterred from entering them by apprehensions as to his future prospects and career.

Present Organisation and Recruitment

The Indian Civil Services.

271. The Civil Services in India are classified in three main divisions; (1) the All-India Services; (2) the Provincial Services; and (3) the Central Services. The All-India Services, though they work no less than the Provincial Services under the Provincial Government, are all appointed by the Secretary of State, and he is the final authority for the maintenance of their rights. Each All-India Service is a single Service and its members are liable to serve anywhere in India; but unless transferred to service under the Central Government, the whole of their career lies ordinarily in the Province to which they are assigned on their first appointment.

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The All-India Services.

272. The All-India Services consist of the Indian Civil Service; the Police; the Forest Service; the Service of Engineers; the Medical Service (Civil); the Educational Service the Agricultural Service and the Veterinary Service. Recruitment however by the Secretary of State to the Buildings and Roads Branch of the Service of Engineers, to the Educational Service, the Agricultural Service and the Veterinary Service, ceased in 1924 on the recommendation of the Lee

Commission. The composition and total strength of these Services on 1st January, 1933, were as follows:—

1.	2. *Europeans*	3. *Indians.*	4. *Total.*
Civil Service	819	478	1,297
Police	505	152	665[1]
Forest Service.. ..	203	96	299
Service of Engineers ..	304	292	596
Medical Service (Civil)	200	98	298
Educational Service ..	96	79	175
Agricultural Service ..	46	30	76
Veterinary Service ..	20	2	22
	2,193	1,227	3,428

The Provincial Services.

273 The Provincial Services (in the sense in which the expression is ordinarily used, which excludes not only the members of All-India Services working in the Province, but also the numerous subordinate Services) are, and always have been, almost entirely Indian in composition, and cover the whole field of provincial civil administration in the middle grades Appointment to these Services are made by the Provincial Governments who, broadly speaking, control their conditions of service and show an increasing tendency to restrict their recruitment to candidates from the Province. In many branches of the administration members of All India and Provincial Services work side by side though the higher posts are usually filled by the former

The Central Services

274 The Central Services are concerned with matters under the direct control of the Central Government. Apart from the Central Secretariat, the more important of these Services are the Railway Services, the Indian Posts and Telegraph Service, and the Imperial Customs Service To some of these the Secretary of State makes appointments, but in the great majority of cases their members are appointed and controlled by the Government of India; and if those Services are taken as a whole, Indians outnumber Europeans even in the higher grades while, with the exception of the railways, the middle and lower grades may be said to be wholly Indian The Anglo Indian community has always furnished a large number of recruits to the Central Services, especially the Railways, the Posts and Telegraphs, and the Imperial Customs Service

[1] Including 8 officers who had not been classified in either category

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Rights of present members of the Public Services

Rights of present members of the Services

275 In considering the rights and safeguards proposed in the White Paper for personnel already in the Service at the date when the Constitution Act comes into force, it will be convenient first of all to take the rights and safeguards applicable to all personnel, secondly, those applicable to officers appointed by the Secretary of State and thirdly, those applicable to officers appointed by other authorities.

Rights and safeguards applicable to all personnel. The special responsibility of the Governor-General and Governors.

276 It will be recalled that a special responsibility is imposed on the Governor General and on each of the Provincial Governors for "the securing to members of the Public Services of any rights provided for them by the Constitution Act and the safeguarding of their legitimate interests" Some of the British India Delegates objected to a special responsibility expressed in such wide terms, and hold that it should extend only to the rights given by the Constitution Act itself. It has been explained to us that the purpose

of the wider definition is to secure to the Services equitable and reasonable treatment in essential matters not covered specifically by statute. For example, it has long been the settled policy of Government that suitable medical attendance should be available to members of the Services and their families, though there is nothing to that effect in the existing Act or in the rules made under it. We agree that, in the circumstances, something more than 'rights' is required and we must leave it to the draftsman to decide whether 'legitimate interests' is sufficient to cover the whole field which we think ought to be covered.

Dismissal and reduction.

277. Protection against dismissal by any authority subordinate to the authority by whom he was appointed is secured to every member of the public service by the present Government of India Act and a statutory rule provides that he shall not be dismissed or reduced without being given formal notice of any charge made against him and an opportunity of defending himself. Provisions on the same lines should obviously find a place in the new Constitution.[1]

Indemnity for past acts.

278. The White Paper proposes that there shall be a full indemnity against civil and criminal proceedings in respect of all acts before the commencement of the Constitution Act done in good faith and done or purported to be done in the execution of duty.[2] In view of threats which have been made in certain quarters, especially against the Police, we think that it is justifiable to give this measure of protection to men who have done no more than their duty in very difficult and trying circumstances. But we think that the certificate by the Governor-General or Governor, as the case may be, ought to be made conclusive on the question of good faith.

[1] White Paper, Proposal 181.
[2] White Paper, Proposal 18.

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Officers appointed by the Secretary of State.

279. In addition to the rights and safeguards common to all members of the Public Services, it is proposed that there shall be secured to every officer appointed by the Secretary of State all service rights possessed by him at the date of the commencement of the Constitution Act or a right to such compensation for the loss of any of them as the Secretary of State may consider just and equitable.[1] A list of the existing service rights are set out in Part I of Appendix VII of the White Paper. Some of them are conferred by the present Government of India Act and could only be modified or abolished by an amending Act; others are embodied in statutory rules made by the Secretary of State in Council. As things stand at present the latter could no doubt be taken away or modified at any time by the same authority; but the whole body of service rights, from whatever source derived, may properly be regarded as forming a single code which the members of the All-India Services now serving may equitably claim should not be varied (at least without a right of compensation) to their disadvantage, and we concur with the White Paper proposal, which we are glad to observe had the approval of the Services Sub-Committee of the First Round Table Conference.

Equitable rights to compensation.

280. In addition to the provision for compensation for the loss of service rights, it is proposed that the Secretary of State should be empowered to award compensation in any other case in which he considers it to be just and equitable that compensation should be awarded.[2] This is no doubt a very wide and general power; but it is impossible to foresee and provide in a statute against all the contingencies that may arise in the administration of a great Service

and we do not, therefore, dissent from the proposal The Secretary of State assisted by his Advisers[3] may be trusted to preserve a reasonable balance between the interests of the Services on the one hand and those of Indian revenues on the other.

281. We have examined with particular care in this connection the suggestions made to us both orally and in writing by the various Service Associations, but have come to the conclusion that no further measures of protection are required We see no advantage, for example, in requiring the concurrence of the Governor to the personnel of the Committees of Enquiry into the conduct of officers Nor do we consider that a case has been made out for resuming to the Secretary of State the detailed regulation for his own Services of travelling and compensatory allowances which are, and have long been, regulated by the authorities in India In the discharge of his special responsibility for securing the legitimate interests of the Services as a whole, the Governor would be bound to satisfy himself — *Further safeguards not necessary*

White Paper Proposal 182
Ibid
Ibid para 3(2)

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that a Committee of Enquiry into an officer's conduct was so constituted as to ensure a fair hearing and similarly that travelling allowances are on an adequate scale

282 We may point out that among the conditions of service which will be secured to all serving officers appointed by the Secretary of State if our recommendations are accepted, are the following — *Summary of more important conditions of service*

(1) a right of complaint to the Governor or Governor General against any order from an official superior affecting his conditions of service

(2) a right to the concurrence of the Governor or Governor General to any order of posting or to any order affecting emoluments or pensions and any order of formal censure

(3) a right of appeal to the Secretary of State against orders passed by an authority in India

(*a*) of censure or punishment,

(*b*) affecting disadvantageously his conditions of service and

(*c*) terminating his employment before the age of superannuation

(4) regulation of his conditions of service (including the posts to be held) by the Secretary of State, who will be assisted in his task by a body of Advisers, of whom at least one half will have held office for at least ten years under the Crown in India,

(5) the exemption of all sums payable to him or to his dependants from the vote of either Chamber of the Legislatures

For contingencies not susceptible of statutory definition, the special responsibility of the Governor General and Governor, and the control which the Secretary of State and his Advisers will exercise over the conditions of service of officers appointed by the Secretary of State, will in our opinion afford a sufficient, and, indeed, the only possible, protection There is a point in every system of administration where some authority must have discretion to deal with such contingencies and must be left to deal with them in an equitable manner

283. The power to regulate the conditions of service of officers not appointed by the Secretary of State has already been delegated to the Government of India in the case of the Central Services and to the Provincial Governments in the case of the Provincial Services but — *Officers appointed otherwise than by the Secretary of State.*

without prejudice to certain rights existing at the time of delegation. The continuance in full of these rights is secured under the White Paper Proposals [1]

Defence Services.

284 Although this chapter is mainly concerned with the Civil Services we think it right to mention the position of members of the Defence Services as a whole, including not only the officers,

[1] White Paper Proposals 191 194

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non commissioned officers and men of the Defence Forces in India but also the corresponding grades of civil officials whose work lies within the sphere of Defence and who are paid from Defence estimates They are clearly entitled to the same kind of rights and protection as they now enjoy as regards their service conditions, although the protection need not necessarily be provided in precisely the same form as that proposed for members of the Civil Services, since Defence personnel will not be affected by the constitutional changes in precisely the same way as the Civil Services are likely to be affected Nevertheless their rights should not be left in doubt Their pay and pensions would be included under the head of expenditure required for the reserved Department of Defence and as such would not be submitted to the vote of the Legislature There should be no room for misunderstanding on this point

Future Recruitment to the Public Services

Future recruitment for Indian Civil Service and Indian Police

285 We have found the problem of the future recruitment of the two principal administrative services in India the Indian Civil Service and the Indian Police among the most difficult of those with which we have had to deal The appointing authority must necessarily control the main conditions of service and if recruitment remains with the Secretary of State there will to that extent be a derogation from the powers which an autonomous Province might expect and claim to exercise over the officers who are working under it Such a derogation is inevitable in the case of officers recruited by the Secretary of State before the establishment of the new Constitution but it was urged before us and has been again emphasised by the British India Delegation in their Joint Memorandum that future recruitment by the Secretary of State of officers who serve a Provincial Government is incompatible with Provincial Autonomy, and that the All India Services ought henceforth to be organised on a provincial basis and recruited and controlled exclusively by the Provincial Government

Continuance of Recruitment by Secretary of State recommended

286 We are very sensible of the logical force of this argument, and in the case of most of the All India services, we fully accept it, subject to certain qualifications to which we refer hereafter But the functions performed by members of the Indian Civil Service and the Indian Police are so essential to the general administration of the country, and the need therefore for maintaining a supply of recruits, European and Indian, of the highest quality is so vital that we could not view without grave apprehension an abrupt change in the system of recruitment simultaneously with the introduction of fundamental changes in the system of government It is of the first importance that in the early days of the new order, and indeed until the course of events in the future can be more clearly foreseen, the new constitution should not be exposed to risk and hazard by a radical change in the system which has for so many generations

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produced men of the right calibre. All the information which we have had satisfies us that in the present circumstances only the existing system of recruitment is likely to attract the type of officer required, and we have come to the conclusion, as proposed in the White Paper,[1] that recruitment by the Secretary of State both to the Indian Civil Service and the Indian Police must continue for the present, and that the control of their conditions of service must remain in his hands. We have considered, but have felt obliged to reject, the possible alternative of recruitment by the Governor-General in his discretion. The change in that case might no doubt be represented as one of form rather than of substance, since the Governor-General would be acting under the directions of the Secretary of State; but we are satisfied that the psychological effect at this juncture upon potential recruits would be such as to make the suggestion quite unacceptable.

Position should be reviewed in light of experience.

287. We recognise that the recommendation which we have felt it our duty to make is one which may not be welcome to Indian opinion. We desire therefore to make it clear that it is not intended to be a permanent and final solution of this difficult question. Our aim, as we have already said, is to ensure that the new constitutional machinery shall not be exposed during a critical period to the risks implicit in a change of system. We observe in the White Paper a proposal that at the expiration of five years from the commencement of the Constitution Act an enquiry should be held into the question of future recruitment for these two Services, the decision on the results of the enquiry (with which it is intended that the Governments in India shall be associated) resting with His Majesty's Government, subject to the approval of both Houses of Parliament.[2] We endorse the principle that the whole matter should be the subject of a further enquiry at a later date; but past experience leads us to doubt the wisdom of fixing a definite and unalterable date for the holding of an enquiry of this kind. We agree that no useful purpose would be served by an enquiry before the expiration of five years, but we think it must be left to the Government of the day in the light of the then existing circumstances to determine whether after that period the time has arrived for such an enquiry. It may be said that this is to postpone the final determination of the question to an indefinite future, but this is by no means our intention. We hope that the situation will have become so far clarified within five years from the establishment of Provincial Autonomy that an enquiry may then be found of advantage but where so much is difficult and perplexing it would be wrong to tie in advance the hands of those on whom the responsibility will rest for coming to a decision. Nor must it be assumed that such an enquiry will be merely a formal prelude to a change of system. It will furnish the information on which an ultimate decision can be based, but we do not desire to anticipate

[1] White Paper Proposal 187

[2] White Paper Proposal 189

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or prejudice the final conclusion. It seems to us that the enquiry would be most conveniently made by a small body of administrative experts, who (though it is impossible at this stage to formulate any precise terms of reference) might be invited to consider (1) whether the Indian Civil Service or the Indian Police, or both, should continue to be recruited on an All-India basis or be replaced in any particular Province or in all Provinces by an exclusively provincial Service;

and (2) if recruitment is to continue on an All-India basis by what authority shall recruitment be made and what shall be the future conditions of service

The Indian Medical Service (Civil)

288 Under existing arrangements there is no direct recruitment for the Indian Medical Service (Civil) Vacancies are filled from among officers appointed to the Indian Medical Service who have had a period of military duty We note the view expressed in the Report of the Services Sub-Committee of the first Round Table Conference that there should in future be no Civil Branch of the Indian Medical Service and that the Civil Medical Service should be recruited through the Public Services Commissions The Sub-Committee however added that the Governments and Public Services Commissions in India should bear in mind the requirements of the Army and of British officials in India and should take steps to recruit an adequate number of European doctors to their respective Medical Services and to offer such salaries as would attract a good type of recruit We are however convinced on the information supplied to us that the continuance of the Civil Branch of the Indian Medical Service will provide the only satisfactory method of meeting the requirements of the War Reserve and of European members of the Civil Services and that it will be necessary for the Secretary of State to retain the power which he at present possesses (although medical matters have since 1920 been under the control of Ministers) to require the Provinces to employ a specified number of Indian Medical Service officers In making these recommendations we have not been unmindful of the natural desire of the Provinces to develop Medical Services entirely under their own control But the requirements of the Army and of the Civil Services have an overriding claim

The Superior Railway Services

289 The present position is that recruitment of European personnel to the Superior Railway Services is divided between the Secretary of State in Council and the High Commissioner for India The former makes a first appointment of persons of non-Asiatic domicile to the Indian Railway Service of Engineers Transportation (Traffic) and Commercial Departments and Transportation (Power) and Mechanical Engineering Departments and the latter various specialist appointments such as Bridge Signal and Electrical Engineers Works Managers and Medical Officers and also Engineers to fill temporary posts

Future recruitment

290 Under the ratios recommended by the Lee Commission in 1924 25 per cent only of the total direct appointments to the Superior

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Railway Services is British but the full effect of the corresponding ratio of Indian appointments will not be apparent for some years as the great majority of the higher posts will continue to be filled by officers appointed to the Service before 1924 We recommend that the existing ratio of British recruitment should be continued for the present and should include a due proportion of Royal Engineer officers We think however that the new Railway Authority should, in the future, appoint British recruits The Railway Authority will, by its constitution be a strong and independent body, interested solely in the efficiency of the Railways, and able to secure for its personnel satisfactory conditions of service, moreover the policy of the Board in relation to recruitment will be subject to the directions of the Governor General whenever in the opinion of the latter the interests of defence or his special responsibilities are involved

The Ecclesiastical and Political Departments

291. We approve the proposal in the White Paper that the Secretary of State should continue to make appointments to the Ecclesiastical Department.[1] Recruitment to the Political Department is indirect, vacancies being filled by transfers from the Indian Army and the Civil Service (mainly the Indian Civil Service) and, to a small extent by the promotion of subordinate political officers. The Governor-General approves transfers from the Indian Civil Service and the Indian Army; transfer from other All India Services and promotions from the subordinate Services are approved by the Secretary of State on the recommendation of the Governor-General.

Political Department posts

292. The Statutory Commission made no specific recommendations for the future organisation and recruitment of the Political Department of which at present the Governor-General himself holds the portfolio. Its total strength on 1st October, 1933, was 108 posts. These include on the External side the secretariat, district and judicial appointments in the North West Frontier Province and Baluchistan, as well as the political agencies in tribal territory, political agencies on the Persian Gulf and a proportion of Consular appointments in Persia, the civil administration of Aden and such appointments as those at the Legations in Afghanistan and Nepal and the Consulate General at Kashgar. On the Internal side they include the appointments to political agencies and residencies through which the relations of the Crown with the Indian States are conducted and the civil administration of the Chief Commissioner's Provinces of Coorg and Ajmer Merwara, and of the assigned tract of Bangalore and other British cantonment areas in the Indian States.

Future recruitment.

293. The White Paper contemplates that after the commencement of the Constitution Act when the Governor General assumes responsibility in his other capacity for conducting the relations of the Crown with the Indian States in matters not accepted as federal

[1] White Paper, Proposal [illegible]

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by their Rulers in their Instruments of Accession it may, for political reasons be found desirable to make the duties of political officers in the Indian States interchangeable with those of political officers employed by the Governor General in the Reserved Department of External Affairs. We accept the view that there is no immediate need to divide, and recruit separately the personnel of the two Departments. Responsibility for recruitment to the political side of the Department will remain with the Secretary of State. For the time being there may be practical convenience in filling appointments in that Department by seconding officers from the Department of External Affairs more especially as the number of posts in either Department is comparatively small and the variety of functions assigned to them makes it desirable that the field of recruitment should be a wide one. Officers of the Indian Army and Members of the Indian Civil Service appointed to the Department by the Governor-General and other officers appointed by the Secretary of State, would enjoy the same measure of protection as we recommend should be accorded to officers appointed to the Services by the Secretary of State.

The Forest Service.

294 Since 1924 the Forests in Bombay and Burma have been administered by a responsible Minister, and under Provincial Autonomy this will in future be the case in all Provinces. We

emphasise the necessity for co-ordinated research in all forestry matters, and we regard it as essential that the Central Institute at Dehra Dun for Forest Research should be maintained. But it is not only in research that co-ordination of effort between the different Provinces is and must continue to be, important. Each Province should know what the other Provinces are doing in such administrative matters as the preparation and carrying out of working plans. At present this co-ordination is secured through the Inspector General of Forests with the Government of India. We think that in future co-ordination will best be secured by the creation of a Board of Forestry on which, in addition to forestry experts, representatives of the Provincial Governments would serve; and we think that the Provinces should be empowered to combine for the purpose of setting up such a Board and contributing to its expenses.

Future recruitment.

295. We consider that appointments of the European and Indian officers required for the higher administrative posts in the Forest Service should in future be made in India. But in the case of a small and very technical service such as the Forest Service, we do not think that the best results could be obtained by separate provincial recruitment: and we recommend therefore that the Provinces should from time to time, with the assistance of the Board of Forestry, prepare a joint statement of their collective requirements in the matter of personnel and entrust the Federal Public Service Commission with the duty of recruitment on their behalf. The actual appointment of recruits should, however, be made by the Provincial Government under whom he is intended to serve, since that Govern-

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ment will control his conditions of service. We regard it as essential to the success of recruitment that a common training centre should be maintained, and we earnestly hope that the present College at Dehra Dun will be made available for that purpose. We hope also that Provincial Governments will continue the very useful practice of lending any officers required by the Federal Government for such purposes as the staffing of the Central Institute for research and of the Training College and for forestry administration in the Andamans. We think also that the Provinces should be willing to fill higher administrative posts from the Forest Service of another Province, if a suitable candidate from their own Province is not available. In all these matters the Board of Forestry should be able to maintain effective touch between the various Provincial Governments.

The Irrigation Service.

296. Irrigation under Provincial Autonomy will also come under the control of a responsible Minister. We emphasize in this case also the paramount need for research and co-ordination. The Royal Commission on Agriculture in India did not recommend the establishment of a central research station for reasons which we accept; but they expressed a strong opinion that Provinces should devote more attention to the various problems that confront Irrigation Engineers. Unlike the Forests, there is no longer any officer with the Government of India who can give advice on Irrigation matters, although his place is to some extent taken by the present Central Board of Irrigation, which we consider should be developed on lines similar to those on which we have recommended the formation of a Board of Forestry. An efficient organisation for the dissemination of information is also essential and we recommend that the existing Central Bureau of Information should be retained and developed on the lines suggested in the Royal Commission's Report.

Present organisation.

297. The higher administrative posts in the Irrigation Service are at present filled by members of the Indian Service of Engineers. Since 1924 on the recommendation of the Lee Commission recruitment of irrigation engineers has been in the proportion of 40 Europeans and 40 Indians for every 100 appointments, the remainder being filled by officers promoted from the Provincial Services of whom the great majority are Indians. In all cases, appointments are made by the Secretary of State.

Future recruitment.

298. The continued recruitment of an adequate number of highly qualified engineers, European as well as Indian, is clearly essential to the efficiency of the irrigation system, especially in the North-West of India, on which the prosperity and indeed the very existence of millions of the population depends. It might well be argued that the Irrigation Service is for this comparable in importance within its own sphere to the Indian Civil Service and the Police Service and that its future recruitment and control should be in the same hands. But after a close examination of the question, our conclusion is that the Irrigation Service ought to become a Provincial Service; and we

are not convinced that even in the Punjab, which is perhaps the crucial case, the situation necessitates a different policy without at least first allowing the Province to prove that it can successfully recruit its own Service. We are informed that there are at present 67 Europeans and 69 Indians in the Irrigation Branch of the Indian Service of Engineers in the Punjab and that, if the recruitment of Europeans now ceased, the number of Europeans would normally drop to 42 in 1939 and to 21 in 1949; that is to say, there would be for some years unless some incalculable factor intervened, such as greatly increased retirements on proportionate pension, a sufficient number of fully trained officers to fill the most essential posts, those of the three Chief Engineers and fifteen Superintending Engineers. The question of irrigation is scarcely of less importance in Sind but we think that the Governor's special responsibility for the Sukkur barrage is there a sufficient safeguard. We think that the Provinces should seek the assistance of the Federal Public Service Commission and the Central Board of Irrigation in matters affecting recruitment.

Question of future resumption of recruitment by the Secretary of State.

299. Nevertheless we are of opinion that a power to resume recruitment should be reserved to the Secretary of State, if a Provincial Government unfortunately proved unable to secure a sufficient number of satisfactory recruits and it appeared that the economic position of the Province and the welfare of its inhabitants was thereby prejudiced; and provision should accordingly be made for that purpose in the Constitution Act.

Recruitment for other Services.

300. Under the White Paper proposals the Governments in India will have a free hand in regard to the recruitment for all other Services.[1] We hope that the establishment of Public Service Commissions will assist them in this most responsible task; and we endorse the observations both of the Royal Commission in 1924 and of the Statutory Commission upon the vital necessity for excluding political or personal influences. We desire to emphasize also the assistance which the Federal Public Service Commission will be able to give to the Provincial Commissions in the establishment and maintenance, so far as the differing requirements and resources of the provinces may admit, of common standards of qualifications and remuneration.

Public Service Commissions

Public Service Commissions.

301. *The Public Service Commissions at present existing in India are* the Central Public Service Commission, established under the Government of India Act, and the Madras Service Commission, established under an Act of the Madras Legislature in 1929. The legislation necessary for setting up a Public Service Commission in the Punjab has been passed, but the establishment of the Commission awaits an improvement in the finances of the Province. The White Paper

[1] White Paper, Proposal 190.

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proposes the continuance of the Central Public Service Commission as a Federal organ, and the setting up in each Province of a Provincial Public Service Commission [1]

Their functions.

302. The functions proposed for all these Commissions are advisory in character and similar to those at present performed by the Central and Madras Commissions.[2] We regard it as essential that each Provincial Government should be able to avail itself of the advice of a Public Service Commission. We recognise that it is not practicable to establish one Public Service Commission for all India but we should view with some apprehension the setting up of some ten Provincial Public Service Commissions in addition to the Federal Public Service Commission We hope therefore that advantage will freely be taken of the proposed provision, which we cordially endorse, whereby the same Provincial Commission would be enabled to serve two or more Provinces jointly, or alternatively, that it should be open to a Province to make use of the services of the Federal Public Service Commission, subject to agreement with the Federal authorities. Without accepting the proposals in the White Paper for the composition and working of these Commissions in every detail, we regard them as generally satisfactory

Payment of Emoluments and Pensions

Funds for the payment of service emoluments.

303 Before leaving this part of our Report, we propose to deal with one matter of general interest to all classes of officers by whatever authority appointed, that is to say, the availability of cash for the payment of Service emoluments, and more particularly for the payment of pensions of officers appointed by the Secretary of State

Certain suggestions rejected.

304. It appeared from the evidence tendered by the various Service Associations that there is apprehension among the Services on this point, and we have very carefully considered whether it requires any special provision in the Constitution Act We are clear in the first place that it would be undesirable to place officers appointed by the Secretary of State in a privileged position in respect of the provision of cash for current pay, though it is to be remembered that their emoluments will not be subject to the vote of the Legislatures. Regular and punctual payment of emoluments is a legitimate interest of all persons in the Public Services, and no one class of officers can be admitted to have a prior claim in this respect On the more general question, we have examined suggestions which have been made for a system of prior charges or for building up a reserve fund. We are informed that the percentage of the total annual revenues of a Province which would be required for the payment of all Service emoluments may be taken as approximately 40 per cent.; and we are satisfied that in respect of payments which constitute so large a proportion of the total annual liabilities of a Province the suggestions are quite impracticable.

[1] White Paper, Proposal 190

[2] White Paper, Proposals 199 201

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No special provision required

305. In so far as the apprehension may be that a temporary deficiency in the cash required to meet such current obligations as the issue of monthly pay might occur, not through any failure in the annual revenues, but through excessive commitments in other directions, the good sense of the Government, and the advice of a strong Finance Department, must in our opinion be relied on as the real safeguard. Nor must it be forgotten that, although a Governor will not have a special responsibility for safeguarding the financial stability and credit of the Province, it will most certainly be his duty to see that he has information furnished to him which would enable him to secure such financial provision as may be required for the discharge of his other special responsibilities including of course his special responsibility for safeguarding the legitimate interests of the Services.

Claims for pensions by officers appointed by the Secretary of State

306. We have said that no distinction can or ought to be drawn between the claim of the various classes of officers serving in a Province for the due payment of their emoluments but to this general statement of principle we think that there should be one qualification. If difficulties should unfortunately arise in regard to a claim to pension by an officer appointed by the Secretary of State who has served from time to time in different Provinces, we think that it would be unreasonable that he should have to make his claim against a number of authorities in respect of different portions of his pension. We therefore approve the proposal in the White Paper that the claims of all officers appointed by the Secretary of State for their pensions should be against the Federal Government only, the necessary adjustments being made subsequently between the Federal Government in the Province or Provinces concerned,[1] and, if that recommendation is adopted, we think that officers appointed by the Secretary of State need have no anxiety regarding the regular and punctual payment of their own pensions and those of their dependants.

Family Pension Funds

307. There is, however, one category of pension payments which stands apart from the rest. The assets of the various Family Pension Funds have been contributed by the subscribers and are their property in a very special sense. We think it right that subscribers to these funds should be given the opportunity of saying whether they desire that a sterling fund should be created with trustees in this country out of which the necessary payments would be made.

The Anglo Indian Community

Anglo Indians and the Services

308. We observe with satisfaction that the White Paper gives effect to a suggestion made with general agreement at the Third Round Table Conference for safeguarding Government grants-in-aid for the education of the Anglo Indian and domiciled European community. We have inquired whether any additional provision in

[1] White Paper, Proposal 18[illegible]

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the Constitution Act is desirable in order to secure to a very small community, which has established a strong claim to consideration by its history and its record of public service, the maintenance of the special position in some of the Public Services which it has won by its own efforts. We recall that the Services Sub-Committee of the First Round Table Conference recommended that special

consideration should be given to the claims of this community for employment in the Services; but we have come to the conclusion that it would not be in the best interests of the community itself to single it out for any special statutory protection in this respect. Provision for the due representation in the Services of minority communities is at present secured by administrative measures and not through the Government of India Act; and we are informed that these measures are now being carefully reviewed in order to ensure that when the Constitution Act comes into force arrangements will be in operation adequate to protect the legitimate interests of minorities, including the Anglo-Indian community. We think that the special attention of the Governor General and the Governors should be drawn in the Instruments of Instructions to these arrangements, and that they should be directed to maintain them without modification, except in so far as may become necessary in the interests of the minority communities themselves or of public policy

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(4) The Judicature

The Federal Court

The Federal Court.

309 A Federal Court is an essential element in a Federal Constitution It is at once the interpreter and guardian of the Constitution and a tribunal for the determination of disputes between the constituent units of the Federation The establishment of a Federal Court is part of the White Paper scheme, and we approve generally the proposals with regard to it [1] We have, however, certain comments to make upon them, which we set out below

The Judges of the Federal Court.

310 The Court should, we think, consist of a Chief Justice and not more than six or eight Judges, the maximum number being specified in the Constitution Act, but we do not suppose that for some time to come it will be necessary to appoint more than three or four The retiring age for Federal Judges should be 65 and not 62 We observe that the Judges are to hold office during good behaviour, and not, as is at present the case with Judges of the Indian High Courts, at pleasure We think that this is right but we assume that it is not intended that the Legislature should have power to present an Address praying for the removal of a Federal Judge and in our opinion a Judge should not be removed for misbehaviour, except on a report by the Judicial Committee of the Privy Council, to whom His Majesty should be empowered to refer the matter for consideration We concur generally with the qualifications proposed for the Judges, but we doubt whether in principle any distinction ought to be drawn in the Constitution Act between judges, advocates and pleaders of State Courts and those of the High Courts though this does not of course mean that any obligation would be imposed upon the Crown to appoint a Judge who had not all the necessary professional qualifications We assume that the White Paper proposals mean throughout by "State Court" the Court of highest jurisdiction in the State A suggestion was made that a High Court Judge who is a member of the Civil Service ought not to be regarded as qualified We could not agree to so invidious a distinction being drawn between one High Court Judge and another, though it may well be that His Majesty may in practice see fit to appoint only such qualified persons as have had a legal training before their appointment to the High Court Bench.

311. It is proposed that the Federal Court shall have an original jurisdiction in— [Original jurisdiction of Federal Court.]

(i) any matter involving the interpretation of the Constitution Act or the determination of any rights or obligations arising thereunder, where the parties to the dispute are (a) the Federation and either a Province or a State, or (b) two Provinces or two States, or a Province and a State·

¹ White Paper Proposals 151 16

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(ii) any matter involving the interpretation of, or arising under, any agreement entered into after the commencement of the Constitution Act between the Federation and a Province or a State, or between two Provinces or a Province and a State, unless the agreement otherwise provides.

This jurisdiction is to be an exclusive one, and in our opinion rightly so, since it would be altogether inappropriate if proceedings could be taken by one unit of the Federation against another in the Courts of either of them But we think that the jurisdiction ought to include not only the interpretation of the Constitution Act, but also the interpretation of federal laws, by which we mean any laws enacted by the Federal Legislature It is essential that there should be some authoritative tribunal in India which can secure a uniform interpretation of federal laws throughout the whole of the Federation.

312. It is also proposed that the Federal Court shall have an exclusive appellate jurisdiction from any decision given by the High Court or any State Court, so far as it involves the interpretation of the Constitution Act or of any rights or obligations arising thereunder; but that no appeal shall lie except with the leave of the Federal Court or of the High Court of the Province or State, or unless in a civil case the value of the subject matter in dispute exceeds a specified sum. In this case also we think that the jurisdiction ought to be extended to include the interpretation of federal laws We had at first thought on a constitutional issue appeal should lie without leave, but we appreciate that in a country where litigation is so much in favour this might result in an excessive number of unnecessary appeals. We therefore approve the proposals in the White Paper, though we think that the Federal Court ought to have a summary power of disposing of appeals or applications for leave to appeal in any case where they appear to be frivolous or vexatious or brought only for the purposes of delay It was urged before us that to permit a litigant in a State Court to apply to the Federal Court for leave to appeal, if the State Court had already refused leave, would be to derogate from the sovereignty of the Ruler of the State, and that the refusal of a State Court to grant leave to appeal, at any rate in a case concerning the interpretation of federal laws, should be treated as final. We should much regret the inclusion of a provision of this kind, nor do we appreciate the argument that the sovereignty of the Ruler would be affected. The appellate jurisdiction of the Federal Court, so far as regards an Indian State, can only arise from the voluntary act of the Ruler himself, viz., his accession to the Federation; the jurisdiction is in no sense imposed on him *ab extra*. It is, however, proposed that all appeals to the Federal Court should be in the form of a Special Case to be stated by the Court appealed from, and, if it would give satisfaction to the States, it might be provided that the granting of leave to appeal by the [Appellate jurisdiction of Federal Court.]

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Federal Court should take the form of Letters of Request directed either to the State Court itself or to the Government of the State for transmission to the Court.

Appeals to Privy Council.

313. The appeal to the Privy Council is preserved, and it is proposed that an appeal shall lie without leave in any matter involving the interpretation of the Constitution Act, but in any other case only by leave of the Federal Court (without prejudice to the grant of special leave by His Majesty), unless the value of the subject matter in dispute exceeds a specified sum. We have no comment to make on this proposal, except that we assume that the jurisdiction of the Privy Council will extend to appeals involving rights and obligations arising under the Constitution Act, as well as the interpretation of the Act itself. Effect will be given to the decisions of the Federal Court, as is the case with decisions of the Privy Council, by the Courts from which the appeal has been brought; and all Courts within the Federation will be bound to recognise decisions of the Federal Court as binding upon themselves. We may perhaps point out that the jurisdiction of the Privy Council in relation to the States will be based upon the voluntary act of the Rulers themselves, *i.e.*, their Instruments of Accession.

Advisory jurisdiction of Federal Court.

314. It is proposed that the Federal Court shall have a jurisdiction similar to that possessed by the Privy Council under Section 4 of the Judicial Committee Act, 1833, which provides that His Majesty may refer to the Committee for hearing or consideration any matters whatsoever as His Majesty may think fit, and that the Committee shall thereupon hear and consider the same, and shall advise His Majesty thereon. The expression used in the White Paper is "any justiciable matter which the Governor-General considers of such a nature and such public importance that it is expedient to obtain the opinion of the Court upon it." Exception was taken to the word "justiciable," and we think perhaps that "any matter of law" would be preferable. We concur generally in the proposal, and we are of opinion that this advisory jurisdiction may often prove of great utility. We agree that it need not be limited to the federal sphere and that the right of referring any matter to the Court for an advisory opinion should be in the Governor-General's discretion. We understand the practice in the United Kingdom is that all such references are heard in open court and that counsel appear and argue as in an ordinary case *inter partes*. We assume that the same practice will be followed in India, and that there will be no question, as some of the British-India delegates appeared to think, of a private and confidential opinion being communicated by the Court to the Governor-General.

Appointment and salaries of Federal Judges.

315. It is common ground that the Federal Judges should be appointed by the Crown; and we think that their salaries should be specified in the Constitution Act or determined by His Majesty in Council and not subject to variation without the assent of Parliament.

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The Supreme Court

Proposal for future establishment of a Supreme Court.

316. The White Paper proposes that the Federal Legislature should be empowered to establish a separate Supreme Court to hear appeals from the provincial High Courts (1) in civil cases and (2) in criminal cases where a death sentence had been passed, provided of course that an appeal did not lie to the Federal Court. The Court would in

effect take the place of the Privy Council, though an appeal would still lie to the latter by leave of the Supreme Court or by special leave of His Majesty. We have given very careful consideration to this proposal, but we do not feel able to recommend its adoption. A Supreme Court of this kind would be independent of, and in no sense subordinate to, the Federal Court; but it would be impossible to avoid a certain overlapping of jurisdictions, owing to the difficulty of determining in particular cases whether or not a constitutional issue was raised by a case under appeal. This might involve the two Courts in undignified and very undesirable disputes, and we are satisfied that the existence of two such Courts of co-ordinate jurisdiction would be to the advantage neither of the Courts themselves nor of the Federation. There is much to be said for the establishment of a Court of Appeal for the whole of British India, but in our opinion this would be most conveniently effected by an extension of the jurisdiction of the Federal Court, and we think that the Legislature should be empowered to confer this extended jurisdiction upon it. It has been objected that not only would so great an increase in the personnel of the Court be required as to make it difficult to find a sufficient number of Judges with the necessary qualifications but also that the essential functions of the Federal Court as guardian and interpreter of the Constitution would tend to become obscured. We fully agree that the quality of the Federal Judges is a matter of the highest importance and that nothing ought to be done which might diminish or impair the position of the Court in its constitutional aspect, but we think that the fears expressed are unfounded. In the first place, it is clear that there would have to be a strict limitation on the right of appeal, so as to secure that only cases of real importance came before the Court; and, if this were done, we see no reason why a comparatively small number of additional Judges should not suffice. Secondly, we assume that the Court would sit in two Chambers, the first dealing with Federal, and the second with British-India, appeals. The two Chambers would remain distinct, though we would emphasise the unity of the Court by enabling the Judges who ordinarily sit in the Federal Chamber to sit from time to time in the other Chamber, as the Chief Justice might direct, or Rules of Court provide; but beyond this we do not think that the two Chambers should be interchangeable.

A Court of Criminal Appeal not recommended.

317. The Supreme Court under the White Paper proposals would, however, as we have said, have jurisdiction to hear certain criminal appeals from British India. We are satisfied that these would be so numerous that, if the Federal Court were given the extended

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jurisdiction which we have suggested, an increase in the number of Judges would be required in excess of anything which we should be willing to contemplate. The question then arises whether the Federal Legislature should be empowered, if and when they thought fit, to set up a separate Court of Criminal Appeal for British India, subordinate to the Federal Court. After careful consideration we have come to the conclusion that a Court of Criminal Appeal is not required in India. Nearly every case involving a death sentence is tried in a District Court, from which an appeal lies to the High Court and, apart from this, no death sentence can be carried out until it has been confirmed by the High Court. Only three of the High Courts (excluding Rangoon) exercise an original criminal jurisdiction, and though there is no further appeal from these Courts, every prisoner under sentence of death can appeal for remission or commutation of

sentence to the Provincial Government and ultimately to the Central Government, or, if he wishes, can ask for special leave to appeal to the Privy Council. In these circumstances the rights of a condemned man seem to be very fully safeguarded, and we think that no good purpose would be served by adding yet another Court to which appeals can be brought.

The High Courts

The High Court Judges.

318. The Provincial High Courts, which enjoy a deservedly high reputation throughout British India, are scarcely affected by the White Paper proposals[1]: but we note the following points. It has been represented to us that the retiring age of Judges should not be raised to sixty-two, but should continue to be sixty; and we concur. We have suggested that in the case of the Federal Court the age should be sixty-five, because it might otherwise be difficult to secure the services of High Court Judges who have shown themselves qualified for promotion to the Federal Court; but the evidence satisfies us that in India a Judge has in general done his best work by the time that he has reached the age of sixty. We note also that the present statutory requirement that not less than one third of the Judges of every High Court must have been called to the English, Scottish, or Irish Bar, and that not less than one third must be members of the Indian Civil Service is to be abrogated. We are informed that the rigidity of this rule has sometimes caused difficulty in the selection of Judges, and we do not therefore dissent from the proposed amendment of the law; but we are clear (and we are informed that is the general opinion of their colleagues) that the Indian Civil Service Judges are an important and valuable element in the judiciary, and that their presence adds greatly to the strength of the High Courts. It has been suggested that their earlier experience tends to make them favour the Executive against the subject, but the argument does not impress us; we are satisfied that they bring to the Bench a knowledge of Indian country life and conditions which town bred barristers and pleaders

[1] White Paper, Proposals 167-171.

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may not always possess, and we do not doubt that the Crown will continue to appoint them. The Indian Civil Service Judges are not at the present time eligible for appointment as Chief Justice of a High Court, though we understand that this rule does not apply in the case of Chief Courts. We see no reason for this invidious distinction, and we think that His Majesty's freedom of choice should not be thus fettered. As regards the tenure of High Court Judges, we think that it should be the same as that which we have recommended for Judges of the Federal Court[1].

Administrative machinery Courts.

319. The administrative machinery of the High Courts is at the present time (save in the case of the Calcutta High Court) subject to the control of the Provincial Governments and Legislatures, and there is evidence that the latter have from time to time tended to assert their powers in a way which might under the new Constitution affect the efficiency of the Courts. The White Paper proposes that in future any expenditure certified by the Governor after consultation with his Ministers, to be required for the expenses of the High Court shall not be submitted to the vote of the Legislative Assembly, though it will be open to discussion by them.[2] We think that in the circumstances this is a reasonable arrangement and will avoid the difficulties to which we have referred.

Federal and Provincial Legislation in relation to the High Courts.

320. We observe that the Federal Legislature is to have an exclusive power to make laws touching the jurisdiction, powers and authority of all Courts in British India (except the Federal Court and the Supreme Court) with respect to the subjects on which it is exclusively competent to legislate, and that the Provincial Legislatures will similarly have power to make laws touching the jurisdiction, powers and authority of all Courts within the Province with respect to subjects on which those Legislatures are exclusively competent to legislate. It has been suggested that this would enable either the Federal or a Provincial Legislature, if they so desired, to deprive the High Courts of much of their jurisdiction, and to transfer it to courts of an inferior status, to the grave prejudice of the rights of His Majesty's subjects in India. In theory this is no doubt possible; but it is, in our view, a necessary consequence of the distribution of legislative powers which we recommend that both the Federal and Provincial Legislatures should have a law-making power for the purposes which we have mentioned, and whatever use they may make of it, we are satisfied that they will never willingly enact legislation which would prejudice or affect the status of the High Courts. Our information is indeed that, so great is the confidence felt in the impartiality and ability of the High Courts, a converse policy is much more likely, if the past is any guide, to be adopted. But, in order that the position of the High Courts may be fully safeguarded, it is for consideration whether the Governor-General and Governors should not be directed in their Instruments of Instruction to reserve any Bill which in their opinion would so derogate from the powers of the High Court as to endanger the position which those Courts are under the Constitution Act clearly designed to fill.

[1] *Supra*, para. 310.
[2] White Paper, Proposal 98 (iii).

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The Subordinate Judiciary.

Necessity for securing independence by subordinate judiciary.

321. This subject is not mentioned in the White Paper, but there are aspects of it which seem to us of such importance that we think it right to state our opinion upon them. The Federal and High Court Judges will be appointed by the Crown and their independence is secure; but appointments to the subordinate judiciary must necessarily be made by authorities in India who will also exercise a certain measure of control over the judges after appointment, especially in the matter of promotion and posting. We have been greatly impressed by the mischiefs which have resulted elsewhere from a system under which promotion from grade to grade in a judicial hierarchy is in the hands of a Minister exposed to pressure from members of a popularly elected Legislature. Nothing is more likely to sap the independence of a magistrate than the knowledge that his career depends upon the favour of a Minister; and recent examples (not in India) have shown very clearly the pressure which may be exerted upon a magistracy thus situated by men who are known or believed to have the means of bringing influence to bear upon a Minister. It is the subordinate judiciary in India who are brought most closely into contact with the people, and it is no less important, perhaps indeed even more important, that their independence should be placed beyond question than in the case of the superior judges. We have given anxious consideration to this matter and our recommendations are as follows.

Candidates seeking to exercise political influence should be disqualified.

322. A strict rule ought in our opinion to be adopted and enforced, though it would be clearly out of place in the *Constitution Act* itself, that recommendations from or attempts to exercise influence by, members of the Legislature in the appointment or promotion of any member of the subordinate judiciary are sufficient in themselves to disqualify a candidate, whatever his personal merits may be. We would admit no exception to this rule, which has for many years past been accepted without question in the Civil Service of the United Kingdom. We do not for a moment suggest that Indian ministers will be willing to adopt any lower standards: but this is a matter in which the right principle ought to be laid down at the very outset of the new constitutional order; and the observations which we have thought it our duty to make may perhaps serve in the future to strengthen the hands of Ministers who find themselves exposed to improper pressure from those whose standards may not be as high as their own.

(a) The Civil Judiciary

Subordinate judges and munsiffs.

323. In the case of subordinate judges and munsiffs, the Provincial Government - that is to say, the Governor advised by the appropriate Minister, after consultation with the Public Service Commission and with the High Court --should make rules defining the standard of qualifications for candidates seeking to enter the Judicial

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service, Candidates should be selected for appointment by the Public Service Commission in consultation with the High Court, subject to any general regulations made by the Provincial Government as to the observance of communal proportions. The Minister would be informed by the Commission of the candidate or the candidates selected by them, and the appointment would be made by the Governor on the Minister's recommendation. The Public Service Commission would of course act in an advisory capacity only, but we cannot conceive that any Minister would reject their advice or recommend an appointment without it. We think it of first importance that promotions from grade to grade or from the rank of munsiff to that of subordinate judge, and also the leave and postings of munsiffs and subordinate judges, should be in the hands of the High Court, subject to the usual rights of appeal of the officer affected.

District Judges

324. In the case of District Judges or additional District Judges, first appointment should, if the candidate is a member of the Indian Civil Service, be made by the Governor on the recommendation of the Minister, after consultation with the High Court. A recommendation by the Minister for the appointment of a member of the subordinate judicial service should only be made with the approval of the Public Service Commission and of the High Court. A recommendation for a direct appointment from the Bar should be made from among persons nominated by the High Court, subject to any general regulations in force regarding communal proportions. A District Judge should only be promoted (except in the case of automatic time scale promotions) on a recommendation by the Minister after consultation with the High Court; and the same rule should apply to postings. In all the cases covered by this paragraph we think that the Governor should have a discretion to reject a recommendation if he does not concur with it.

(b) The Criminal Magistracy

Deputy Magistrates and tehsildars.

325. In the case of deputy magistrates, sub-deputy magistrates and tehsildars. the High Court have little knowledge of their judicial work, and none at all of the work which a large number of them

perform in their executive or administrative capacities. Candidates for a first appointment to these posts should be selected by the Public Service Commission, and the appointment should be made from the candidates so selected by the Governor on the recommendation of the Minister. In the case of subsequent promotions or postings, the Minister should ask for the recommendations of the District Magistrate, in consultation, where necessary, with the Sessions Judge of the district in which the subordinate magistrate works; and we think that, if these recommendations are disregarded, some machinery should be devised for bringing the matter to the notice of the Governor.

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(5) COMMERCIAL AND OTHER FORMS OF DISCRIMINATION

Reasons why statutory provision is necessary

326. The importance attached in this country to this part of the Indian constitutional problem has been both misunderstood and misrepresented. It has been misunderstood, because it was thought to imply a belief that the accepted policy of Indian political leaders is to destroy or injure British commercial interests by unfair and discriminatory legislation or otherwise, and misrepresented, because it has been made the basis of a suggestion that His Majesty's Government are seeking to impose unreasonable fetters upon the future Indian Legislature for the purpose of securing exceptional advantages to British, at the expense of Indian, commerce. The belief and the suggestion are equally without foundation. The Second Round Table Conference in 1931 adopted a resolution to the effect that there should be no discrimination between the rights of the British mercantile community, firms and companies, trading in India, and the rights of Indian born subjects; witnesses who appeared before us spoke in the same sense, and the British-India Delegation in their Joint Memorandum state that on the question of principle there has always been a substantial measure of agreement in India. On the other hand, we have been assured no less strongly by those who represent British commercial interests that they ask for no exceptional or preferential treatment, and that their policy is one of a fair field and no favour. The question therefore resolves itself to a consideration of the best method of giving practical effect to the avowed policy and intentions of all concerned. It may indeed be asked why, in view of the assurances of which we have spoken, it is necessary to deal with the matter at all in the Constitution Act; and to this our answer must be that, though we hope and believe that the statutory provisions which we contemplate will in the event prove to have been an excess of caution, yet there have also been statements of a very disturbing character made from time to time by influential persons in India, which could not fail to give rise to suspicions and doubts; and statutory provision by way of reassurance has for that reason become an evident necessity. Nor are the doubts and suspicions thus aroused confined to trading interests in this country; for the minorities in India have expressed similar apprehensions and are anxious to have a statutory safeguard for what they conceive to be their rights.

Administrative discrimination

327 Discrimination may be of two kinds, administrative or legislative. We are satisfied that with regard to the first a statutory prohibition would be not only impracticable but useless, for it would be impossible to regulate by any statute the exercise of its discretion by the Executive. The true safeguard against discrimination of this kind must be found in the good sense of Indian Ministers. But at the same time we agree with the proposal in the White Paper[1] that the

[1] White Paper, Proposals 18 and 70

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Governor-General and Governors in their respective spheres should have imposed upon them a special responsibility for the prevention of discrimination, thus enabling them, if action is proposed by their Ministers which would have discriminatory effect, to intervene, and, if necessary, either to decline to accept their advice or (as the case may require) to exercise the special powers which flow from the possession of a special responsibility. But, although we think that, the main purpose of this special responsibility will be to counteract discriminatory action in the administrative sphere,—and indeed that it is the only available means for that purpose,—we think that its definition might be made more precise and its ambit more clear; and with this object we suggest that the definition should be "for the prevention of discrimination in matters in respect of which provision is made elsewhere in the Act against discrimination by legislative enactment."

The Fiscal Autonomy Convention.

328. Before considering the scope which should be given to provisions in restraint of legislative discrimination, we think it right to observe that it is not our intention that any of the provisions which we contemplate for the purpose of preventing discrimination, whether administrative or legislative, should be so utilised as to interfere with or limit the fiscal autonomy which India has enjoyed since the acceptance of the recommendations made by the Joint Committee on the Bill of 1919, commonly called the Fiscal Autonomy Convention. At the same time, fears have been expressed lest the unrestricted operation of this Convention might result, with no remedy available, in the imposition of penal tariffs upon British goods with the object, not of furthering Indian trade but of injuring British trade, in order to put pressure upon this country for political purposes. We are satisfied that it was not in the minds of the authors of the Fiscal Autonomy Convention, and has never during the period of its operation been in the mind of His Majesty's Government, that the Convention should be invoked in aid of such a policy; and we have been assured by the Indian Delegates that there would be no desire in India that unrestricted fiscal freedom should be utilised in future for a purpose so destructive of the basis of that conception of partnership upon which the whole of our recommendations proceed. In those circumstances we shall, in fact, be making no change in the existing fiscal relations between India and this country if we seek to make plain on the face of the Statute that it is not a legitimate or permissible use of Indian fiscal freedom to discriminate against British trade as such: and we think it essential that on this matter there should be no ground for misapprehension in future. We therefore recommend that to the special responsibilities of the Governor-General enumerated in the White Paper there should be added a further special responsibility defined in some such terms as follows:—"the prevention of the subjection (otherwise than in accordance with commercial or trade agreements) of British goods imported into India from the United Kingdom to discriminatory treatment as compared with those imported from other countries.'

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The Governor-General's Instrument of Instructions.

329. But in making this recommendation we further recommend that the Governor-General should be given clear directions in his Instrument of Instructions as to the scope of the special responsibility in question. The instructions we contemplate would indicate that this special responsibility is not intended to affect the competence of the Indian Legislature and of his Government to develop their own fiscal

and economic policy: that the duty imposed upon him by this provision is that of preventing imports from the United Kingdom from being singled out for specially unfavourable treatment in respect of such matters as customs duties, prohibitions or restrictions (other than measures concerned with the preservation of health) compared with the treatment accorded to imports from other countries that he should understand that it is not within his functions in this respect to attempt to limit the freedom of the Federal Government to negotiate with other countries for the securing of mutual tariff concessions and finally, that he should be enjoined that it is his duty under this special responsibility not only to prevent discriminatory action, legislative or administrative, but also action which, though not in form discriminatory, is so in fact

Legislative discrimination.

330 We have said that it is, in our view, impossible to attempt any precise definition, with a view to its prohibition of administrative discrimination Legislative discrimination, however, stands upon a different footing, and it is in our judgment possible to enact provisions against it We do not forget that to the Statutory Commission the technical objections to any attempt to define discriminatory legislation in a constitutional instrument seemed decisive[1], but we observe that the Federal Structure Committee in their Fourth Report which was adopted by the Second Round Table Conference, saw no reason to doubt that an experienced parliamentary draftsman would be able to devise an adequate and workable formula, which it would not be beyond the competence of a court of law to interpret and make effective ' The opinion of a body which contained so many distinguished lawyers must carry great weight, and we concur with them in thinking that the attempt should be made We do not think that the White Paper proposals on the subject are very clear or precise, and in the paragraphs which follow we shall indicate the statutory provisions which as it seems to us, ought to find a place in the Constitution Act

General considerations

331 We think it right to make by way of preface some general observations Firstly, we express our entire agreement with the statement of the British Indian Delegation in their Joint Memorandum " that a friendly settlement by negotiation is by far the most appropriate and satisfactory method of dealing with this complicated matter," and we shall have certain suggestions to make later on this aspect of it Secondly, we are of opinion that no case has been made out for extending the scope of any arrangements made in such a way

[1] Report Vol II para 156

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as to include the relations between India and other parts of His Majesty's dominions It is not for us to comment upon or to criticize certain aspects of Dominion policy towards Indian subjects of His Majesty, but we cannot be unaware of the strong feeling in India on this subject and India may justly claim the right to protect the interests of her own people in other lands Lastly, we think that, so far as possible, any statutory enactment should be based upon the principle of reciprocity

Laws imposing certain conditions and restrictions should not apply to British subjects domiciled in the United Kingdom

332 Subject to what we say hereafter on the question of reciprocity, we are of opinion (1) that no law[1] restricting the right of entry into British India should apply to British subjects domiciled in the United Kingdom, but there should be a saving for the right of the authorities in India to exercise any statutory powers which they may possess to exclude or remove undesirable persons, whether domiciled in the United Kingdom or elsewhere, and (2) that no law relating to taxation travel and residence, the holding of property,

the holding of public office, or the carrying on of any trade, business, or profession in British India, should apply to British subjects domiciled in the United Kingdom, in so far as it imposes conditions or restrictions based upon domicile, residence or duration of residence, language, race, religion, or place of birth.

Companies incorporated in the United Kingdom and in India.

333. As regards companies, we are of opinion (1) that a company incorporated now or hereafter in the United Kingdom, should, when trading in India, be deemed to have complied with the provisions of any Indian law relating to the place of incorporation of companies trading in India, or to the domicile, residence or duration of residence, language, race, religion, descent or place of birth, of the directors, shareholders, or of the agents and servants of such companies; and (2) that British subjects domiciled in the United Kingdom who are directors, shareholders servants or agents of a company incorporated now or hereafter in India should be deemed to have complied with any conditions imposed by Indian law upon companies so incorporated, relating to the domicile, residence or duration of residence, language, race, religion, descent or place of birth, of directors, shareholders, agents or servants.

Provisions should be on basis of reciprocity.

334. There should however be reciprocity between India and the United Kingdom; and accordingly if a United Kingdom law imposes in the United Kingdom upon Indian subjects of His Majesty domiciled in India or upon companies incorporated in India conditions, restrictions or requirements in respect of any of the above matters from which in India British subjects domiciled in the United Kingdom and companies incorporated in the United Kingdom would otherwise be exempt, the exemption enjoyed by the latter would *pro tanto* cease to have effect.

[1] "Law" throughout this section is intended to include any regulations, bye-laws, etc., having the force of law.

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Shipping.

335. We think that separate provision should be made for the case of ships and shipping; and it might be enacted that ships registered in the United Kingdom should not be subjected by law in British India to any discrimination whatsoever, as regards the ship, officers or crew, or her passengers or cargo, to which ships registered in British India would not be subjected in the United Kingdom.

Exceptions.

336. We are satisfied that there would have to be certain exceptions. Thus, the statutory provisions which we have suggested ought not to affect any laws in force at the commencement of the Constitution Act, or laws which exempt from taxation persons not domiciled or resident in India. We are also disposed to think that some provision ought to be made for the purpose of securing that the Executive is not unduly hampered in case of emergency; and it is for consideration whether the provisions which we have suggested should find a place in the Constitution Act ought not to be subject to the power of the Governor-General and the Provincial Governors to declare in their discretion that a law to which those provisions would otherwise apply is necessary in the interests of the peace or tranquillity of India (or a Province, as the case may be) or any part thereof.

Bounties and subsidies.

337. A further exception seems necessary in connection with the Indian Acts, federal or provincial, which authorise the payment to companies or firms of grants, subsidies or bounties out of public funds for the purpose of encouraging trade or industry in India. A Committee, known as the External Capital Committee, in 1925 recommended that certain conditions should be attached

to grants of this kind and their recommendations were adopted and have since that date been acted upon, by the Government of India. These seem to us to have been conceived in a very reasonable spirit, and we do not think that any objection could be taken to them. But we think that a distinction may properly be drawn between companies already engaged at the date of the Act which authorizes the grant, in the branch of trade or industry which it is sought to encourage, and companies which engage in it subsequently; and we therefore recommend that in the case of the latter it may be made a condition of eligibility for the grant that the company should be incorporated by or under Indian law, that not more than half of the directors shall be Indians, and that the company shall give such reasonable facilities for the training of Indians as the Act may prescribe. In the case of the former, the reciprocal provisions which we have suggested would continue to apply, and the company should be equally eligible to participate in the grant with Indian companies.

Bills discriminatory in fact though not in form.

338. The effect of our recommendations for the statutory prohibition of certain specified forms of discrimination would be, of course, to lay open to challenge in the Courts as being *ultra vires* any legislative enactment which, having been assented to by the Governor-General or a Governor, as the case may

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be, is alleged to be inconsistent with these prohibitions. But it will clearly be the duty of the Governor-General and of the Governors to exercise in accordance with these statutory prohibitions their discretion in giving or withholding their assent to Bills. And we think that the Instrument of Instructions should make it plain, as we have already indicated in connexion with the Governor-General's special responsibility in relation to tariffs, that it is the duty of the Governor-General and of the Governors in exercising their discretion in the matter of assent to Bills not to feel themselves bound by the terms of the statutory prohibitions in relation to discrimination but to withhold their assent from any measure which, though not in form discriminatory, would in their judgment have a discriminatory effect. We have made, we hope, sufficiently plain the scope and the nature of the discrimination which we regard it as necessary to prohibit, and we have expressed our belief that statutory prohibitions should be capable of being so framed as generally to secure what we have in view. We are conscious, however, of the difficulty of framing completely watertight prohibitions and of the scope which ingenuity may find for complying with the letter of the law in a matter of this kind while violating its spirit. It is, in our view, an essential concomitant of the stage of responsible government which our proposals are designed to secure that the discretion of the Governor-General and of the Governors in the granting or withholding of assent to all Bills of their Legislature should be free and unfettered; and in this difficult matter of discrimination in particular we should not regard this condition as fulfilled if the Governor-General and Governors found themselves strictly bound by the terms of the statutory prohibitions. We further recommend that, if in any case the Governor-General or a Governor feels doubt whether a particular Bill does or does not offend against the intentions of the Constitution Act in the matter of discrimination, he should be instructed to reserve the Bill for the signification of His Majesty's pleasure.

Practice of professions.

339. Our attention has been called to the question of the qualifications required for the practice of the different professions in India, and the suggestion has been made that persons holding United Kingdom qualifications ought to be secured a statutory right to practise in India by virtue of those qualifications. The case of medical practitioners has features of its own and we deal with it separately in the paragraphs which follow: but with regard to professional qualifications in general we are unable to accept the suggestion. No person has at the present time a right to practise his profession in India by virtue of a United Kingdom qualification, unless that qualification has been recognised as giving a title to practise (as has been done in more than one instance) by some Indian law; an English barrister, for example, only has the right to practise before an Indian High Court if the rules of the Court have given a right of audience to

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English barristers. We can see no justification for imposing upon Indian Legislatures a statutory restriction in this respect which does not exist at the present moment, and we think that they should be free to prescribe the conditions under which the practice of professions generally in India is to be carried on. But it seems to us that the vested interests of those who are practising a profession in India at the commencement of the new Constitution Act may properly be safeguarded; and we think that they should have a right to continue to practise notwithstanding any future Act which may be passed by any Indian Legislature requiring Indian qualifications as a condition of practice. We may however be permitted to express the hope that when the different professions in India become, as we hope they will, organised and controlled by their own governing bodies, arrangements will be freely made with the corresponding bodies in the United Kingdom for the mutual recognition in both countries of the qualifications prescribed by each, or at least that mutual facilities will be given for their acquisition.

Burma.

340. On the assumption that Burma will be separated from British India we think that British subjects domiciled in India ought to be accorded in Burma the same treatment which would be given in India to British subjects domiciled in the United Kingdom, save as regards the right of entry into Burma, on which in view of the special circumstances we shall have recommendations to make in due course. These matters would fall to be dealt with in the separate legislation which will be required to establish the new constitutional machinery in Burma; but it will also be necessary to consider to what extent corresponding treatment should be accorded in India to British subjects domiciled in Burma, provision for which would find a place in the Indian Constitution Act; and our recommendations on this matter also will be found in that part of our Report which deals with Burma.

Opportunity should be given for conventional arrangements in the future.

341. We have expressed our concurrence with the statement in the British-Indian Joint Memorandum that "a friendly settlement by negotiation is by far the most appropriate and satisfactory method" of dealing with the question of discrimination. At the first Round Table Conference the Report of the Minorities Sub-Committee was adopted which contained a paragraph to the effect that there should be no discrimination between the rights of the British mercantile community trading in India and the rights of Indian born subjects, and that "an appropriate convention based on reciprocity should be entered into for the purpose of regulating these rights." It was

suggested by some that a convention for this purpose should be negotiated forthwith, and it was argued that in that event statutory provision in the new Constitution would be rendered unnecessary. We have no doubt however that such a convention, designed to regulate rights under a new constitutional order, could not with propriety be made except with the new Indian Government, and that the proposal made in January 1931, was for that reason

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unpracticable Nevertheless, since we hold strongly that the conventional is preferable to the statutory method, and that agreement and goodwill form the most satisfactory basis for commercial relations between India and this country, we think that there should be nothing in the Constitution which might close the door against a convention We recommend accordingly that provision be made enabling His Majesty, if satisfied that a convention has been made between His Majesty's Government in the United Kingdom and the new Government of India covering the matters with which we have already dealt in this part of our Report, and that the necessary legislation for implementing it has been passed by Parliament and by the Indian Legislature, should be empowered to declare by Order in Council that the statutory provisions in the Constitution Act shall not apply so long as the convention continues in force between the two countries It may be said that the practical result will be exactly the same, and this no doubt is true, but the merit of the proposal, as we see it is that it would enable the Indian Government and Legislature, if they so desire, to substitute a voluntary agreement for a statutory enactment, and would therefore give to the arrangements for the reciprocal protection of British subjects in India and the United Kingdom respectively the conventional basis which in our judgment it is most desirable that they should have

Medical Qualifications

342 The question of the mutual recognition of medical practitioners in the United Kingdom and British India has unhappily become a matter of political controversy in India during the last few years, and in view of its importance to both countries, it seems desirable that we should describe shortly the present position The Medical Act, 1886, empowers His Majesty by Order in Council to apply the Act to any British possession which in the opinion of His Majesty affords to the registered medical practitioners of the United Kingdom such privileges of practising in the said British possession as to His Majesty may seem just ' The Act has been applied to British India, in view of the recognition there accorded to practitioners registered in the United Kingdom, and this entitles any person who holds an Indian medical diploma recognised for the time being by the General Medical Council as "furnishing a sufficient guarantee of the possession of the requisite knowledge and skill for the efficient practice of medicine surgery and midwifery" to be registered on application in the United Kingdom medical register The Act also provides that where the General Medical Council have refused to recognise a medical diploma for this purpose, the Privy Council, on application being made to them, may, if they think fit after considering the application and after communication with the General Medical Council, order the latter to recognise the diploma, and the Council are thereupon under a statutory obligation to do so. It will thus be seen that, though the Act is based upon the principle

Provisions of Medical Act, 1886.

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of reciprocity, the General Medical Council is not compelled to give an automatic recognition to each and every diploma conferred in the other countries to which the Act applies, but is entitled, subject to an appeal to the Privy Council, to satisfy itself that any particular diploma is such as to furnish a sufficient guarantee of the possession of the requisite medical knowledge and skill. We understand that in countries where there is some central authority corresponding to the General Medical Council, the Council is accustomed to consult that body for the purpose of satisfying itself that a particular diploma about which perhaps a question has been raised affords the guarantee required; but where such body does not exist, the Council must of course make its own inquiries. We should point out that the General Medical Council in the United Kingdom does not itself confer medical degrees. It keeps the medical register; that is to say, a register of medical practitioners who have passed a qualifying examination in medicine, surgery, and midwifery, held by Universities in the United Kingdom and certain other bodies, in which a standard of proficiency satisfactory to the Council has been attained; and the Council, though they do not themselves examine, are thus able in effect to secure that the qualifying examinations and the standard of proficiency are adequate.

Withdrawal of recognition of Indian medical diplomas.

343. Until very recently there was no central body in India corresponding to the General Medical Council, and therefore no authority with power to secure and maintain a common standard for the medical qualifications evidenced by the diplomas recognized by the various provincial Medical Councils in India. It appears that there was in consequence a considerable variation in the standards adopted by these bodies, and the Council some four years ago took the drastic step of refusing any longer to accord recognition to Indian medical diplomas, as the Indian Legislature had refused to provide the money for a system of inspection which would have been acceptable to the General Medical Council pending the establishment of a system of inspection by an all India Medical Council. It is perhaps not surprising that the action of the Council caused resentment and protest. It was believed by many that political, or at least ulterior, motives lay behind it; but no one who is aware of the integrity and independence of the Council and its complete dissociation from every kind of political influence can doubt that it was inspired solely by a desire to promote the interests of medical education and to secure the highest standard of proficiency in those who claimed to be admitted to the United Kingdom register. On the merits of the dispute we are not, of course, competent to pronounce, nor are we able to say whether the Council might have achieved their purpose in some way less likely to wound Indian susceptibility; but of the purity of its intentions we cannot entertain any doubt, and it is to be regretted that none of those affected thought fit to avail themselves of the right of appeal to the Privy Council and to obtain a decision from a body whose impartiality could not be questioned.

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Indian Medical Council Act, 1933.

344. The controversy has had, at any rate, one satisfactory result; for the Indian Legislature have now passed an Act known as the Indian Medical Council Act, 1933, which sets up a Medical Council for the whole of British India with substantially the same functions as those of the General Medical Council in the United Kingdom. This Act sets out in the First Schedule the medical qualifications

granted by medical institutions in British India, which are to be recognised for the purposes of the Act, and gives the Council power to secure by inspection and, in the last resort, by the withdrawal of recognition an adequate standard of proficiency. In the Second Schedule are set out the medical qualifications granted by medical institutions outside British India which are to be recognized for the purposes of the Act, and in this list are included the registrable qualifications granted by licensing bodies in the United Kingdom which admit to the United Kingdom medical register. These are to continue unaltered for a period of four years, but the Council are empowered to enter into negotiations with the authority in any country outside British India entrusted with the maintenance of a register of medical practitioners for the settlement of a scheme for the reciprocal recognition of medical qualifications. The Governor-General is to be informed of the decisions of the Council to recognise or refuse to recognise the medical qualifications proposed by the authority abroad for recognition in British India; and he is to frame a new Schedule (to become effective four years after the commencement of the Act) which will comprise the medical qualifications thereafter to be recognised. Provision is also made enabling the Governor-General in Council after the expiration of four years to amend the Schedule and to add further qualifications, or to recognise only qualifications granted before or after a specified date. It will thus be seen that the Governor-General in Council would, on the representations of the Indian Medical Council, be free to withdraw at any time after the expiration of four years the recognition in British India secured to medical practitioners on the United Kingdom medical register, though there is a saving for all medical qualifications granted previously.

The Act a basis for satisfactory arrangements in the future.

345. We appreciate and sympathise with the efforts of the Indian medical profession to put its house in order, and we hope that co-operation between the two Councils (for we are convinced that good will is not lacking on either side) will go far to ensure an amicable and agreed solution of the present difficulty. We are of opinion that the Indian Medical Council Act, with only slight modifications, can be made the basis of a permanent and satisfactory arrangement. The references in the Act to the Governor-General in Council will in any event require modification under the new Constitution, and at first sight it would appear that it would be sufficient to substitute a reference to the Governor-General, *i.e.*, the Governor-General advised by his Ministers, since this is a matter falling within the ministerial sphere. But we confess that we should find difficulty

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in agreeing that the Governor-General is an appropriate authority for determining whether any particular qualifications should be recognised; for this is not a matter of policy, but one which involves technical and professional considerations. We think that the true solution is to be found in an adaptation of the provisions in the United Kingdom Act which we have mentioned above, whereby any refusal by the General Medical Council to recognise a medical diploma granted abroad may be made the subject of an appeal to the Privy Council; and we suggest that if after the expiration of four years the Indian Medical Council proposes to withhold recognition of any of the United Kingdom qualifications set out in the Second Schedule to the Indian Act, an appeal should lie to the Privy Council, whose decision should be final. The Act of 1886 requires the Privy Council, before giving its decision on a refusal to recognise a diploma granted

abroad, to communicate with the General Medical Council, and there should be a corresponding provision that in the converse case there should be communication with the Indian Medical Council : but we are disposed to think that the law should be amended so as to provide that in either case both Councils should be communicated with before the decision of the Privy Council is given. We hope that before the four years have expired, as a result of joint action between the two Councils, the General Medical Council will have seen its way to restore its recognition of Indian diplomas, and that discussions may proceed between them free from political influence or bias and with the sole object of promoting the interests of medical education in both countries.

The Indian Medical Service.

346. There is one aspect of this question which seems to us to present special features. It is not necessary to emphasise the importance of the Indian Medical Service from the military point of view; and in our opinion the members of the Service ought by virtue of the commissions which they hold to be deemed to possess all necessary statutory qualifications entitling them to practise.

Fundamental Rights

A declaration of fundamental rights impracticable.

347. The question of so-called fundamental rights, which was much discussed at the three Round Table Conferences, was brought to our notice by the British-India Delegation, many members of which were anxious that the new Constitution should contain a declaration of rights of different kinds, for reassuring minorities, for asserting the equality of all persons before the law, and for other like purposes; and we have examined more than one list of such rights which have been compiled. The Statutory Commission observe, with reference to this subject :—" We are aware that such provisions have been inserted in many Constitutions, notably in those of the European States formed after the war. Experience however has not shown them to be of any great practical value. Abstract declarations are useless, unless there exist the will and the means to make them effective."[1] With these observations

[1] Report, Vol. II, para. 36

we entirely agree : and a cynic might indeed find plausible arguments in the history during the last ten years of more than one country for asserting that the most effective method of ensuring the destruction of a fundamental right is to include a declaration of its existence in a constitutional instrument. But there are also strong practical arguments against the proposal, which may be put in the form of a dilemma : for either the declaration of rights is of so abstract a nature that it has no legal effect of any kind, or its legal effect will be to impose an embarrassing restriction on the powers of the Legislature and to create grave risk that a large number of laws may be declared invalid by the Courts because inconsistent with one or other of the rights so declared. An examination of the lists to which we have referred shows very clearly indeed that this risk would be far from negligible. There is this further objection, that the States have made it abundantly clear that no declaration of fundamental rights is to apply in State territories; and it would be altogether anomalous if such a declaration had legal force in part only of the area of the Federation. There are however one or two legal principles which might, we think, be appropriately embodied in the Constitution, and we direct attention to them in the paragraphs which follow. There are others, not strictly of a legal

kind to which perhaps His Majesty will think fit to make reference in any proclamation which He may be pleased to issue in connection with the establishment of the new order in India.

Eligibility for holding public office, etc.

348. Among the proposals in the White Paper is one which would put it beyond the power of any Legislature in British India to make laws (with certain exceptions) subjecting any British subject to any disability or discrimination in respect of a variety of specified matters, if based upon religion, descent, caste, colour or place of birth.[1] This proposal seems to us too wide and likely to fetter unduly the powers of the Indian Legislatures; and we understand that His Majesty's Government have, after consultation with the Government of India, arrived at the same conclusion. We agree that some declaration of the general rights of British subjects in India is required, but we think that it would be preferable to base it upon the existing section of the Government of India Act. We think that this declaration should provide that no British subject, Indian or otherwise, domiciled in India shall be disabled from holding public office or from practising any trade, profession or calling by reason only of his religion, descent caste, colour or place of birth; and it should be extended, as regards the holding of office under the Federal Government, to subjects of Indian States.

Expropriation of private property.

349. We think also that the expropriation in British India of private property, except for public purposes and on payment of compensation to be assessed by some independent authority, should be expressly prohibited. This would quiet doubts which have been caused in India by certain Indian utterances and would tend to strengthen the forces of law and order.

[1] White Paper, Proposal 122

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(6) Constituent Powers

Meaning of Constituent Powers.

350. The White Paper proposes (and we entirely concur) that, whatever the powers of the Indian Legislatures may be in relation to Acts of Parliament in general, they shall not extend to the enactment of any law affecting the provisions of the Constitution Act, except in so far as that Act itself empowers them to do so.[1] By "Constituent Powers," therefore, we mean powers conferred by the Constitution Act upon some authority other than Parliament to vary specified provisions of the Act, whether or not such variation is required by the Act to be subject to the approval of Parliament.

Grant of Constituent Powers to Indian Legislatures not yet practicable.

351. We are satisfied that, though there are various matters in the Constitution Act which after an interval of time might in principle be left quite appropriately to modification by the Central or Provincial Legislatures, as the case may be, as subsequent experience may show to be desirable, it is not practical politics here and now to attempt to confer such powers upon them. It would be necessary not merely to decide what matters could thus be dealt with, but also to devise arrangements to ensure that the various interests affected by any proposed modification were given full opportunity to express their views, and that changes which they regarded as prejudicial to themselves could not be forced upon them by an inconsiderate majority. With a Constitution necessarily so framed as to preserve so far as may be a nice balance between the conflicting interests of Federation and Provinces, of Province and Province, of minority and majority, and, indeed, of minority and minority, and with so much that is unpredictable in the effects of the inter-play of these forces, it is plain that it would be a matter of extreme difficulty to

devise arrangements likely to be acceptable to all those who might be affected; and it would probably be found that the balance could only be preserved and existing statutory rights only guaranteed by a number of restrictions and conditions upon the exercise of the constituent powers which would make them in practice unworkable. But whether or not this can reasonably be regarded as a defect in the Constituent Act, we do not think that the question is one of immediate importance, since we should have felt bound in any event to recommend that the main provisions of the Act should remain unaltered for an appreciable period, say, for ten years, in order to ensure that the Constitution is not subjected at the outset to the disturbances which might follow upon hasty attempts to modify its details.

Constitutional amendment otherwise than by Act of Parliament.

352. At the same time we are satisfied that there are various matters which must be capable from the beginning of modification and adjustment by some means less cumbrous and dilatory than amending legislation in Parliament. To meet this need, we recommend that the requisite powers for ensuring elasticity, where it is

[1] White Paper, Proposal 110.

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necessary, should be placed by the Act in the hands of His Majesty's Government, but subject, nevertheless, to the control of Parliament. We may add that we could not in any case regard some of the provisions to which we think that this procedure should apply as appropriately entrusted to any authority in India for amendment or modification. The White Paper proposes that the regulation of certain matters should be prescribed in detail by His Majesty in Council after the Constitution Act is passed, and that any subsequent variations should be effected in the same manner. Orders in Council are commonly made upon the advice of Ministers without the intervention of Parliament, but there is also a well-established procedure, for which precedents are to be found in many Acts of Parliament, whereby both Houses of Parliament are enabled to consider and to approve the drafts of any proposed Orders before they are finally submitted to His Majesty; and in certain cases we think that this procedure would be appropriate for the Orders in Council now under consideration.

Administrative matters.

353 The matters which, under the White Paper,[1] it is proposed to be prescribed by Order in Council, fall into three categories. The first class comprises :—

(*a*) The payments (other than salary proper, which is to be fixed by the Act itself) to be made to the Governor-General and Governors on their own account and that of their personal staffs;

(*b*) The salaries and conditions of service of the Governor-General's Counsellors;

(*c*) The salaries, pensions, leave and other allowances of the Judges of the Federal Court and of the High Courts.

We see no reason why, except in the case of (*c*),[2] Parliament should desire to concern itself directly with these matters, the settlement of which is in the nature of an executive function.

Matters which should be under control of Parliament.

354. But there are other matters to be prescribed[3] which are of an essentially different nature :—

(*a*) the percentage of income tax which is to be assigned to the Provinces and the basis on which that assignment is to be made;

(b) the sum to be retained at the outset by the Federation out of the proceeds of taxes on income which would otherwise be assigned to the Provinces;

(c) the basis on which the States are to contribute to Federal revenues during the operation of Federal surcharge on income tax;

[1] White Paper, Proposals 10, 12, 152, 171
[2] See *supra*, para 315.
[3] White Paper, Proposals 37, 57, 106, 139, 141, 144

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(d) the subventions to be made from Federal revenues to certain deficit Provinces;

(e) the qualifications of electors to the Provincial and Federal Legislatures; the delimitation of constituencies; the method of election of representatives of communal and other interests; the filling of casual vacancies and other ancillary matters; and

(f) the specification of the areas to be treated as Excluded and Partially Excluded, respectively.

Some of these matters can scarcely be determined until after the Constitution Act is on the statute book; and to set out the others in the Act itself would add greatly to its length and complexity. We agree, therefore, that the method of proceeding by Order in Council, with a power to modify subsequently by the same method, is both necessary and appropriate.

Procedure suggested.

355. In the determination of all matters in this second category, we think it essential that Parliament should have a voice; and we recommend that a provision should be included in the Constitution Act requiring every Order in Council relating to them to be laid in draft before both Houses of Parliament for thirty sitting days before it is submitted to His Majesty. It would thus be open to either House to criticize the draft, if its provisions appeared objectionable, and His Majesty's Government would then have to consider whether it should not be withdrawn or revised; but we think also that His Majesty's Government should also have the power, in any case where such a course seemed desirable, to submit the draft to both Houses for approval by affirmative Resolution. A procedure of this kind would, we think, enable Parliament to retain effective control over these subsidiary matters, and would secure that demands were only made upon parliamentary time when the intrinsic importance of the proposals made was sufficient to justify such a course.

Resolutions for constitutional amendment by Indian Legislatures.

356. We have given reasons for our conviction that a specific grant of constituent powers to authorities in India is not at the moment a practicable proposition. We think, however, that a plan whereby the new Legislatures can be associated with the modification hereafter of the provisions of the Act, or of any Order in Council, relating to the composition and the size of the Legislatures or the qualifications of electors, is very desirable. It is, of course, competent for any Legislature in India to pass a Resolution advocating a constitutional change, with a request that its Resolution should be forwarded to His Majesty's Government for consideration, and for this no provision in the Constitution Act would be required. But in our view it ought hereafter to be possible, under specified conditions, for a responsible Government in India, with the approval of its Legislature, to be assured that any such Resolution is actually taken into consideration by His Majesty's Government and their decision upon it formally recorded. We recommend, therefore, that where an Indian Legislature

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has passed a Resolution of this kind and has presented an Address to the Governor-General or Governor, as the case may be, praying that His Majesty may be pleased to communicate it to Parliament, the Resolution shall be laid before both Houses of Parliament not later than six months after its receipt, with a statement of the action which His Majesty's Government propose to take upon it.

Resolutions should be subject to certain conditions.

357. But we think that this procedure should be subject to the following conditions :—

(a) that the Resolution should be confined in scope to matters concerning the size and composition of, and the franchise for, the legislatures ;

(b) that the Federal Legislature should have no power to propose an alteration in the size or composition of either Chamber which would involve a variation of the proportions of the seats allotted to the States and the Provinces respectively, or of the relative size of the two Houses ;

(c) that the procedure should not come into force until the expiry of ten years in the case of a Provincial Legislature from the inauguration of Provincial Autonomy, and in the case of the Federal Legislature from the inauguration of the Federation ;

(d) that as a guide to His Majesty's Government and Parliament in this matter, the Governor-General or Governor, as the case may be, should be required, in forwarding a Resolution, to state his own views on the question of its effect upon the interests of any minority or minorities ; and, finally,

(e) that the Resolution should have been proposed on the motion and on the responsibility of the Federal or Provincial Ministers, as the case may be.

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(7) The Secretary of State and the Council of India

The Secretary of State in Council.

358. The Secretary of State in Council is by statute a body corporate, and the powers exercisable by the corporation thus brought into existence are singular and indeed in some respects anomalous, because inconsistent with the doctrine of ministerial responsibility. The Council itself consists of the Secretary of State and not less than eight nor more than twelve members, of whom at least one-half must have served or resided in India for at least ten years. The members other than the Secretary of State hold office for a term of five years, but, like His Majesty's Judges and the Comptroller and Auditor-General, may be removed from office on an address presented to the Crown by both Houses of Parliament.

Powers of the Council of India.

359. The Secretary of State in Council has power to dispose of real or personal estate vested in the Crown, to raise money by way of mortgage, and to make, vary and discharge contracts ; and at the present time in any suit, whether in India or elsewhere, to which the Government of India or any Local Government or any official employed by them is a party, the proceedings must be in the name of the Secretary of State in Council. The Secretary of State in Council is also the only authority for raising loans in this country for the purpose of the Government of India. The Council of India, under the direction of the Secretary of State, is required to "conduct the business transacted in the United Kingdom in relation to the Government of India and the correspondence with India." At meetings of the Council, questions are decided by a majority vote, but the Secretary of State may, if he thinks fit, over-rule the Council, except in certain matters for the decision of which a majority of the Council present and

voting is required These matters are (1) grants or appropriations of any part of the revenues of India, (2) the sale or disposal of real or personal estate and the raising of money thereon by mortgage or otherwise, (3) the making of contracts, including instruments of contract of civil offices in India, (4) the application to the Government of India and the local Governors of authority to perform on behalf and in the name of the Secretary of State in Council any of the obligations of the last two heads (5) the passing of any order affecting the salaries of members of the Governor General's Council, and (6) the making of rules regulating various matters connected with the Indian Public Services

Powers in relation to finance.

360 The Bill which became the Act of 1858 under which the Crown and Parliament first assumed complete responsibility for the government of India originally provided that the decision of the Secretary of State should be final in all matters which had given rise to a difference of opinion in the Council of India, but the House of Commons insisted upon limiting the authority of the Secretary of

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State over the expenditure of Indian revenues firstly by requiring the concurrence of the Council of India to grants or appropriations of any part of those revenues and secondly by requiring the consent of both Houses of Parliament to the defraying from Indian revenues of the cost of any military operation beyond the external frontiers of India The purpose of these amendments appears to have been the anxiety of Parliament not to leave a Minister the unfettered disposal of the whole of the revenues of India and of the large patronage which would thereby be placed in his hands and to afford safeguards against the expenditure of Indian revenues on purposes other than those arising strictly out of the necessities of Indian government The result has been that His Majesty's Government have never had and have not now the power to compel contributions from Indian revenues for Imperial purposes if a majority of the Council of India refuse to sanction the proposal and there is reason to believe that the powers of the Council in this respect have on more than one occasion in the past enabled a Secretary of State successfully to resist pressure from his colleagues in the Government to authorize expenditure from Indian revenues which appeared to him prejudicial to the interests of the Indian taxpayer.

Continuance of Council of India not necessary under responsible government.

361 We cannot doubt that under a system of responsible government in India, the Secretary of State in Council could not continue on the present basis It will no longer be necessary with the transfer of responsibility for finance to Indian Ministers that there should continue to be a body in the United Kingdom with a statutory control over the decisions of the Secretary of State in financial matters, nor ought the authority of the Secretary of State to extend to estimates submitted to an Indian Legislature on the advice of Indian Ministers But in our opinion it is still desirable that the Secretary of State should have a small body of Advisers to whom he may turn for advice on financial and service matters and on matters which concern the Political Department

An advisory body proposed.

362 We concur, therefore, in the proposal in the White Paper that the Secretary of State should be empowered to appoint not less than three nor more than six persons for the purpose of advising him of whom two at least must have held office for at least ten years under the Crown in India [1] The Secretary of State will be free to seek their advice, either individually or collectively, on any matter as he may



think fit, but will not be bound to do so save in one respect only. It is proposed that so long as he remains the authority charged with the control of any members of the Public Services in India, he must lay before his Advisers, and obtain the concurrence of a majority of them to, the draft of any rules which he proposes to make under the Constitution Act for the purpose of regulating conditions of service,

[1] White Paper, Proposal 176.

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and any order which he proposes to make upon an appeal to him from any member of the service which he controls. These proposals in effect preserve to the Services the safeguards which they at present enjoy through the Council of India, and we have only two suggestions to make with regard to them. We think in the first place that the service of the Advisers who are required to have held office for at least ten years under the Crown in India should not have terminated more than two years before their appointment; and, secondly, it seems to us reasonable in the circumstances that at least half of the Advisers should have the service qualification.

Property, suits, etc.

363. The disappearance of the Secretary of State in Council as a statutory corporation will necessitate provisions in the Constitution Act transferring to the appropriate authority, the Federal Government, Provincial Governments, or the Railway Authority, as the case may be, the rights, liabilities and obligations incurred by the Secretary of State in Council by contract or otherwise before the establishment of the new Constitution, any existing rights or suit and arbitration in this country being preserved against the Secretary of State as the successor to the Secretary of State in Council in respect of these liabilities. It seems to us that provision will also have to be made for giving a juristic personality to the Federal and Provincial Governments for the purpose of enabling them in future to sue and be sued in their own names.

India Office staff.

364. The Statutory Commission expressed the opinion that if material reductions in the India Office staff should result from their recommendations, the question should be considered whether special compensation ought not to be granted to civil servants employed in the India Office for whom equivalent employment cannot be provided elsewhere, since the ordinary rules regulating the compensation of retrenched civil servants did not seem appropriate in the case of officers whose careers might be terminated as a result of changes in high policy.[1] We are informed that the Secretary of State is unable at the present time to make any forecast of the volume of business which the India Office will have to transact under the new order, but that the possibility of retrenchment sooner or later is very real and involves an extraordinary risk which no one on the India Office staff could have foreseen at the date of his entry into the Civil Service and which it is not right to ask him to assume now without any prospect of compensation, if he should be affected. In these circumstances we are of opinion that the power of the Secretary of State to grant compensation from Indian revenues to members of the Indian Public Services should extend to any members of the India Office staff who may be retrenched in consequence of the constitutional changes.

[1] Report, Vol. II, para. 360.

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Expenses of India Office.

365. We understand that at the present time the expenses of the India Office establishment are a charge on the revenues of India, but that an annual grant in aid of £150,000 is made by the Treasury. This

is a matter which ought, we think, to be considered in connection with future changes. It seems to us that it would correspond more nearly with the constitutional position now to be established if the expenses of the India Office were included in the Civil Service Estimates of the United Kingdom, but that Indian revenues should contribute a grant in aid, in view of the functions which the Secretary of State and his Department will continue to perform on behalf of the Governments in India.

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(8) The Reserve Bank

Indian Reserve Bank Act, 1931.

366. We have in an earlier passage referred to the necessity of leaving no room for doubt as to the ability of India to maintain her financial stability and credit at home and abroad. This is naturally of great importance in the sphere of currency and exchange, which, besides their pervading influence on the whole economic structure of the country, may have far-reaching effect upon government finances. At present currency and exchange are the direct concern of the Government of India, but for some time it has been felt to be desirable that they should be entrusted to a central bank, which would also control the credit mechanism of the country. The economic justification for such a change becomes reinforced when constitutional changes are being made in the form of government at the Centre. We agree with the view which, we understand, has been taken throughout by His Majesty's Government that a Reserve Bank on sure foundation and free from political influence should already have been established and in successful operation before the constitutional changes at the Centre take place. The Indian Legislature has recently passed a Reserve Bank of India Act, and we are assured that this measure should provide the Bank with a sound constitution. As regards the date of its inauguration, we understand that no definite statement can yet be made. This must of course depend to some extent on the absence of unfavourable economic developments; but we gather that there is at present no reason to anticipate that it cannot be brought into being well in advance of constitutional changes at the Centre. Reliance on the Bank to play its due part in safeguarding India's financial stability and credit clearly demands that at all events its essential features should be protected against amendments of the law which would destroy their effect for the purpose in view.

Certain amendments of Act should require prior sanction of Governor-General.

367. The White Paper proposals require the prior consent of the Governor-General at his discretion to the introduction of legislation affecting that portion of the Reserve Bank Act which regulates the powers and duties of the Bank in relation to the management of currency and exchange[1]; that is to say, they do not cover the constitution of the Bank itself. We feel however that so narrow a definition leaves open the possibility of amendment to other portions of the Act which might prejudice or even destroy some of the features of the system which we would regard as essential to its proper functioning. It seems clear that the Act must be considered as a whole and we recommend that any amendment of the Reserve Bank Act or any legislation affecting the constitution and functions of the Bank, or of the coinage and currency of the Federation, should require the prior sanction of the Governor-General at his discretion. Certain of the functions vested by the Reserve Bank Act in the Governor-General in Council (of which an important example is the appointment of the Governor,

Deputy Governor and four nominated Directors of the Bank) will in future require to be vested in the Governor-General in his discretion, and appropriate provision in the Constitution Act will be needed to secure this.

[1] White Paper, Proposal 119

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(9) FUTURE ADMINISTRATION OF INDIAN RAILWAYS

Railway Policy and a Statutory Railway Authority

368 It is stated in the White Paper[1] that His Majesty's Government consider it essential that, while the Federal Government and Legislature will necessarily exercise a general control over railway policy, the actual control of the administration of the State Railways in India (including those worked by Companies) should be placed by the Constitution Act in the hands of a Statutory Railway Authority, so composed and with such powers as to ensure that it is in a position to perform its functions upon business principles without being subject to political interference

Report of Committee in June, 1933.

369 Questions of principle and detail arising out of the proposal were considered by a very representative Committee which sat in London in June 1933 The Report of the Committee (described as "Sketch Proposals for the Future Administration of Indian Railways") has been made available to us and was published in our Records on 27th July, 1933 and for convenience of reference we reproduce it as an Appendix We consider that the scheme outlined by the Committee provides a suitable basis for the administration of the Indian Railways, subject, however, to two conditions, to which we attach importance, viz, that not less than three of the seven members of the proposed Authority should be appointed by the Governor General in his discretion, and that the Authority should not be constituted on a communal basis We have also considered the question whether the statutory basis for the new Railway Authority should be provided by the Constitution Act or by Indian legislation There would be obvious advantages in having in being at the earliest possible date a statutory Railway Authority conforming as closely as possible, both in composition and powers, with the body which will function after the establishment of the Federation, and we see no objection to the necessary steps being taken to this end in India But even so we are clearly of opinion that the Constitution Act must lay down the governing principles upon which this important piece of administrative machinery should be based, and consequently that the provisions of the first (and any subsequent) Indian enactment on this matter should conform with those principles

Certain matters should be regulated by Constitution Act.

370 In our view it will be necessary to regulate under the Constitution Act the following matters –

(a) The extent of the control of the Federal Government and the Indian Legislature over the Railway Authority (paras. 1 and 2)[2] It will also be necessary under this head to make it clear that the Governor General's special responsibilities extend to the operations of the Railway Authority.

[1] White Paper, Introd para 74
[2] References are to paragraphs of the Sketch Proposals

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(b) The principles which should guide the Authority (para. 5).

(c) The method of appointing members (para. 2, subject to our observations above).

(d) The conditions for the separation of railway finances from general finances (paras 5–7)

(e) The right of the Indian railway companies as laid down in their contracts to have access to the Secretary of State in regard to disputed points and, if desired, to proceed to arbitration (para. 4).

(f) Machinery for arbitration proceedings on disputed issues in the railway field (para 12) It is a matter for consideration whether a tribunal of a permanent character rather than a tribunal *ad hoc*, as suggested by the Committee, would not be more suitable for this purpose

(g) Requirement of prior consent of the Governor General at his discretion to legislation affecting the constitution or powers of the Railway Authority

APPENDIX (IV)

Sketch Proposals for the future Administration of Indian Railways

1 Subject to the control of policy by the Federal Government and the Legislature a Railway Authority will be established and will be entrusted with the administration of railways in India (as described in paragraph 4) and will exercise its powers through an executive constituted as described in paragraph 3

2 The Railway Authority will consist of seven members The Committee is divided on the question whether (*a*) three will be appointed by the Governor General in his discretion and four by the Governor General on the advice of the Federal Government or (*b*) all will be appointed by the Governor General on the advice of the Federal Government Those members of the Committee who are members of the Central Legislature, with the exception of Mr Anklesaria support the latter alternative All the Hindu and Muslim members of the Central Legislature on the Committee agree that out of the seven seats on the Railway Authority two should be reserved for the Muslim community and one for the European community Sir Phiroze Sethna Mr Anklesaria Sir Manubhai Mehta and the European members of the Committee while they would welcome an authority representative of all interests and all communities so far as is compatible with efficiency do not consider that any special provision should be made in the statute for the establishment of the Railway Authority on a communal basis The seven members so appointed must be possessed of special knowledge[1] of commerce industry agriculture or finance, or have had extensive

[1] Mr Joshi would add "knowledge of public affairs"

Mr Joshi considers that two seats on the Railway Authority should be specially reserved for representatives of labour and the travelling public

Mr Joshi and Dr Ahmad consider that if the Authority is to consist of a whole time Chairman and part time members the number should be increased

Mr Joshi and Mr Anklesaria consider that special representation should be given to agriculturalists on the Railway Authority

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administrative experience The President[1] of the Authority who shall have the right of access to the Governor General, will be appointed from the members by the Governor General in his discretion

The Federal Minister responsible for Transport and Communications may at any time convene a special meeting of the Railway Authority for the purpose of discussing matters of policy or questions of public interest At such meetings the Federal Minister will preside The Federal Minister may by order require or authorise the Railway Authority to give effect to decisions of the Federal Government and the Legislature on matters of policy, and it shall be obligatory on the Railway Authority to give effect to such decisions

No Minister or member of the Federal Legislature or any other Legislature in India will be eligible to hold office as a member of the Authority till one[2] year has elapsed since he surrendered his office or seat, nor will any person be appointed as a member of the Authority who has been a

servant of the Crown in India, a railway official in India, or has personally held railway contracts, or has been concerned in the management of companies holding such contracts, within one year of his relinquishment of office or of the termination of the contract as the case may be. The Federal Minister responsible for Transport and Communications may, if he sees fit, attend the ordinary meetings of the Authority or be represented thereat, but in neither case will there be the right to vote. The members of the Authority will hold office for five years, but will be eligible for re-appointment for a further term of the same length or for a shorter term. (In the case of the first appointments, three will be for three years only, but these members will be eligible for re-appointment for a further term of three or five years).

Any member of the Authority may be removed from office by the Governor-General in his discretion if in his opinion, after consultation with the Federal Government, there is sufficient cause for such action.

Members shall be appointed to the Railway Authority who are prepared to give their services to such an extent as may be required for the proper performance of their duties as laid down in the Statute.[3] Their emoluments shall be such as to secure suitable men who will be prepared to devote sufficient time for the proper discharge of their duties and responsibilities, and will be fixed by the Governor-General in his discretion after consultation[4] with the Federal Government, the emoluments of the members of the first Railway Authority being fixed in the Statute.

3. At the head of the railway executive there will be a Chief Commissioner, who must possess expert knowledge of railway working, and will be appointed by the Railway Authority subject to the confirmation of the Governor-General.[5] A Financial Commissioner will be appointed by the Governor-General on the advice of the Federal Government. He must possess extensive financial experience and have served for not less than 10 years under the Crown or have shown outstanding capacity in the conduct of the financial

[1] Mr Joshi and Mr Ranga Iyer consider that the appointment of President should be made on the advice of the Federal Government.

[2] Mr Joshi and Mr Yamin Khan hold the view that in regard to the membership of a Legislature the year's disqualification should not apply but that any member of a Legislature appointed to the Railway Authority will *ipso facto* vacate his seat.

[3] Mr Ranga Iyer, Mr Padshah, Mr Joshi, Dr Ahmad and Mr Yamin Khan are of opinion that the members should be 'whole-time', while the other members of the Committee consider that the Committee's recommendation does not exclude the appointment of whole-time members should experience prove this to be necessary.

[4] Mr Joshi and Mr Ranga Iyer hold that "in his discretion after consultation with" should read "on the advice of".

[5] Mr Joshi would add "and the Federal Government".

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affairs of commercial or railway undertakings. The Railway Authority, on the recommendation of the Chief Commissioner, may appoint additional Commissioners who must be chosen for their knowledge of railway working. Except in matters relating to Finance the Chief Commissioner shall have power to overrule his colleagues. The Chief Commissioner will carry out the duties from time to time delegated to him by the Railway Authority and may delegate such powers to his subordinate officers as may be approved by the Railway Authority.

4. The Railway Authority will be responsible for the proper maintenance and efficient operation of the railways vested in the Crown for the purposes of administration (including those worked by Companies), all of which will remain vested in the Crown for the purposes of the Federal Government. The Railway Authority will also exercise the control over other railways in British India at present exercised by or on behalf of Government. Provision will be made for safeguarding the existing rights of Companies working under contracts with the Secretary of State in Council, and it will be the duty of the Railway Authority to refer to the Secretary of State any matters in dispute with the Companies which, under the terms of those contracts, are subject to the decision of the Secretary of State in Council or which may be referred to arbitration. It will be obligatory on the Railway Authority and the Federal Government to give effect to the decision of the Secretary of State or the award of an arbitrator.

5. In exercising the control vested in it, the Railway Authority will be guided by business principles, due regard being paid to the interests of agriculture, industry and the general public and to Defence requirements. After meeting from receipts the necessary working expenses (including provision for maintenance, renewals, depreciation, bonus and interest on Provident Funds, interest on capital and other fixed charges payments to Companies and Indian States under contracts or agreements) the surplus will be disposed of in such manner as may be determined from time to time by the Federal Government under a scheme of apportionment running for a period of not less than five years In the event of a dispute as to the adequacy or otherwise of the allowance to be made in respect of renewals and depreciation the Auditor General shall be the deciding authority Pending any new scheme of apportionment the disposal of any surplus will be governed by the arrangements in force at the time the Authority is established

6 The Railway depreciation, reserve and other funds should be utilised solely for railway purposes, and be treated as far as possible as the property of the Railway Authority The investment of such funds and the realisation of such investments by the Railway Authority shall be subject to such conditions as the Federal Government may prescribe A Committee might be convened in India to advise what those conditions should be

7 Revenue estimates will be submitted annually to the Federal Government, which will in turn submit them to the Federal Legislature but these estimates will not be subject to vote If the revenue estimates disclose the need for a contribution from general revenues, a vote of the Legislature will, of course, be required The programme of capital expenditure will be submitted to the Federal Government for approval by the Federal Legislature The Federal Government, may, however, empower the Railway Authority to incur capital expenditure subject to conditions to be prescribed

8 The Railway Authority will be empowered subject to the powers of the Governor General in the exercise of his special responsibilities, and subject to the safeguarding of the rights of all officers in the service at the time of the establishment of the Railway Authority, to regulate by rules or by general or special order the classification of posts in the railway services on State worked lines in British India, and the methods of recruitment,

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qualifications for appointment to the service, conditions of service, pay and allowances, Provident Fund benefits, gratuities, discipline and conduct of those services to make such delegations as it thinks fit in regard to appointments and promotions to authorities subordinate to it and to create such new appointments in the State Railway Services in British India as it may deem necessary or to make to authorities subordinate to it such delegations as it thinks fit in regard to the creation of new appointments In its recruitment to the railway services the Railway Authority shall be required to give effect to any instruction that may be laid down to secure the representation of the various communities in India In regard to the framing of rules to regulate the recruitment of the Superior Railway Service the Public Service Commission[1] shall be consulted Any powers in regard to matters dealt with in this paragraph at present exercised by the Government of India over Company managed railways shall in future be exercised by the Railway Authority

9 The Railway Authority will at all times furnish the Federal Government with such information as that Government may desire and will publish an Annual Report and Annual Accounts The Accounts of the State owned lines in British India will be certified by or on behalf of the Auditor General

10 Should any question arise involving a conflict of interest between the various authorities in British India responsible for railways waterways and roads as competitive means of transport, a Commission will be appointed by the Governor General to ascertain the views of all the interests concerned and to report, with recommendations, to the Federal Government whose decision shall be final The Commission shall consist of one independent expert of the highest standing and experience in transport matters, with whom will be associated, at the discretion of the Governor General, two or more assessors

11 The Federal Government shall lay down regulations for safety on all the Indian railways and one of the Departments of the Federal Government, other than that responsible for Transport and Communications, shall be responsible for the enforcement of such regulations, subject, in the case of the Indian States, to the provisions of their respective Instruments of Accession.

In regard to the railways referred to in paragraph 4,[2] maxima and minima rates and fares shall be fixed by the Railway Authority subject to the control of the Federal Government. Any individual or organisation having a complaint against a railway administration under the control of the Railway Authority in respect of any of the matters which may, at present, be referred by the Railway Department to the Railway Rates Advisory Committee, may have the matter referred, under such conditions as the Federal Government may prescribe, to an Advisory Committee to be appointed by the Federal

[1] Mr Joshi and Mr Padshah consider that the Public Service Commission should be consulted in regard to the recruitment of both the Superior and Subordinate Services to the extent practicable

Sir Muhammad Yakub considers that the Public Service Commission should be utilised in making appointments as far as practicable.

[2] Mr Mudaliar and Mr Joshi hold that the restriction under this clause to railways in British India conflicts with the provisions contained in the White Paper on the subject

Mr Ranga Iyer considers that the present powers exercised by the Government of India over all railways in Indian States should be exercised by the Railway Authority under the Federal Government

It was represented on behalf of the Indian States that separate arrangements would be required for railways owned by Indian States and accordingly no provision has been made for such railways in the scheme except to some extent under safety (paragraph 11 sub paragraph 1) and again under arbitration (paragraph 12).

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Government. Before the Federal Government passes any order on a recommendation of the Advisory Committee it shall consult the Railway Authority.

12 [1] Provision should be made for the reference, at the request of either the Railway Authority or the Administration of a railway owned by an Indian State, of disputes in certain matters such as the construction of new lines, the routing and interchange of traffic and the fixation of rates, to arbitration by a tribunal consisting of one nominee of each party and a chairman approved by both parties. The decision of the Committee should be final and binding on both parties. Should the parties be unable to agree on the nomination of a chairman, he shall be nominated by the Governor-General in his discretion.

The arrangements should be such as not to prejudice the position of the Federal Court as the interpreter of the Constitution and Constitutional documents.

[1] Mr Mudaliar and Mr Joshi dissent from the proposals in this clause as antagonistic to the proposals in the White Paper

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(10) Audit and Auditor-General

The existing audit system.

371. At present, Audit in India, both Central and Provincial, is carried out by a staff under the Auditor-General. He is appointed by the Secretary of State in Council, who also frames rules defining his powers and duties. In India, Accounts and Audit are carried out by a combined staff, so that the Auditor-General has functions in relation to Accounts as well as to Audit. An experiment was tried in recent years in one Province of separating Accounts from Audit but was abandoned on the grounds of expense. There is at present no constitutional provision requiring the report of the Auditor-General to be laid before the Legislature in India, though in fact this is done. Audit of the Accounts of the Secretary of State is carried out by the Auditor of Indian Home Accounts who, in accordance with Section 27 (1), Government of India Act, is appointed by

the Crown by warrant countersigned by the Chancellor of the Exchequer. His report is by statute presented to Parliament It has also been found convenient to use the services of the Home Auditor to audit expenditure by the High Commissioner

The position and functions of the Auditor-General and the Home Auditor have been fully described by the Statutory Commission [1]

Future arrangements

372 When under the future Constitution the revenues of India are vested in the Federal and Provincial Governments, and no longer in the Secretary of State in Council as at present, it will clearly be necessary to provide that the Auditor General in India shall report to those Governments and to the Legislatures in India, instead of to the Secretary of State in Council With the establishment of Provincial Autonomy it will also be necessary to enable a Province to conduct its own Audit and Accounts if it should desire to do so, although both on grounds of economy and for other reasons, many advantages would be gained by the maintenance of the present system Even if some or all of the Provinces should ultimately conduct their own Audit and Accounts it is desirable that Accounts framed on a common basis should be available for such purposes as the consideration by the Federal Government of applications for loans from Provincial Governments or proposals for the assignment of revenues to Units of the kind mentioned in our earlier section on Federal Finance [2]

Audit of Home Accounts

373 As regards payments made by the Secretary of State in this country out of Indian revenues these will in future be mainly on behalf of the Central Government especially in relation to Defence. Constitutionally they will not in general differ from those made by the High Commissioners except that they will more often relate to Reserved Departments than will be the case with expenditure by the High Commissioner It appears desirable that the Audit of these

[1] Report Vol I para 402
[2] *Supra*, paras 241-262

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payments should be made by a Home Auditor on behalf of the Auditor General in India and that the report should go through the latter to the Indian Legislature

Recommendations

374 The White Paper contains no proposals relating to the Auditor General or the Home Auditor although it recognises that the necessary provision would have to be made [1]. Our recommendations on this subject are as follow

Auditor-General in India

(i) The Auditor-General in India should be appointed by the Crown, and his tenure should be similar to that of a High Court Judge that is during good behaviour subject to an age limit, and he should be removable only by the King in Council He should not be eligible for further office under the Crown in India His salary and general conditions of service should be prescribed by Order in Council

(ii) His duties and powers should be prescribed in the first instance by Order in Council, but the Federal Legislature should have power to amend and supplement these provisions, subject to the prior assent of the Governor-General in his discretion to the introduction of the legislation

(iii) The cadre of the Audit and Accounts Department should be fixed by the Federal Government Salaries should be

votable, except in cases where individual salaries are already non-votable under other provisions of the Act.

(iv) Central Audit and Accounts should apply as at present to the Provinces for a period of at least five years; but Provinces should be empowered to take over their own Accounts, or Audit as well as Accounts, on giving three years' notice, the earliest date for such notice being two years after the establishment of Provincial Autonomy. The Constitution Act should provide that if a Province elects to take over its own Audit the Chief Auditor of the Province shall be appointed by the Crown with tenure and conditions of service prescribed in the same way as those of the Auditor-General.

(v) The Report of the Auditor-General on the Federal Accounts should be submitted to the Governor-General, who would be required to lay it before the Federal Legislature. His report on the Provincial Accounts (or the Report of the Provincial Chief Auditor if the Province had taken over Audit) should be submitted to the Governor who would be required to lay it before the Provincial Legislature.

(vi) Whether a Province has taken over Accounts or Audit or not, it is essential that there should be established a uniform general form of Accounts for the Federation and for all British

[1] White Paper, Introd., para 76

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India Provinces. Apart from this requirement, a Province which had taken over Accounts or Audit should have the same powers *mutatis mutandis*, as the Federal Government, in relation to the duties and functions of the Auditor-General and his staff.

Auditor of Indian Home Accounts

(i) Expenditure from Indian Revenues, Federal or Provincial, incurred in the United Kingdom, whether the disbursements are made in the High Commissioner's Office or in the Office of the Secretary of State should be audited on behalf of the Auditor-General in India by an Auditor of Indian Home Accounts. His report should be sent to the Auditor-General for incorporation in the Auditor-General's own report for presentation to the Indian Legislatures. In the event of a Province having its own Chief Auditor, the Home Auditor would report to him in relation to expenditure relating to that Province.

(ii) The Auditor of Indian Home Accounts should be under the general superintendence of the Auditor-General and subject to the general provisions mentioned above with regard to powers and duties. The Home Auditor should be appointed by the Governor-General in his discretion. His salary, which should be non-votable, and his conditions of service, except that his tenure of office and the procedure for removing him would be the same as in the case of the Auditor-General (though the age limit might differ), would be determined by the Governor-General.

(iii) As regards the staff of the Home Auditor, cadre and salaries should be fixed by the Governor-General in his discretion. Salaries should be votable, unless in any individual case non-votable under any other provisions of the Act. The Home Auditor himself should appoint and remove members of his staff. Rights of existing members of the staff of the Home Auditor, including non-votability of salaries, should be protected.

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(11) Advocates-General

Functions of Advocates-General.

375. In the course of our enquiry we have been impressed by the desirability of making available to each Provincial Government the services of a Law Officer of independence and standing, who would occupy substantially the same position as that of the Advocate-General at present attached to the Governments of each of the three Presidencies of Bengal, Madras and Bombay. Section 114 of the Government of India Act enables His Majesty to appoint by warrant an Advocate-General for each of those Presidencies, but defines his functions no more explicitly than by providing that each Advocate-General may take on behalf of His Majesty such proceedings as may be taken by His Majesty's Attorney-General in England. We are informed however that in practice the functions of the Advocate-General may be briefly described as being to advise the Provincial Government on any legal problem which may be referred to him, to represent the Crown in original civil causes in the High Court to which the Crown is a party, and also in any criminal appeals in the High Court which are regarded as of special importance; while instances of his power to take such proceedings as may be taken by the Attorney-General here are his power to enter a *nolle prosequi*, or to grant a fiat for review of verdict, in criminal cases tried by the High Court in its original jurisdiction, and to protect public rights in such matters as public charities and public nuisances.

Advocates-General should be appointed in all Provinces.

376. We think that it will prove under the new Constitution no less necessary that an office of this kind, with a statutory basis, should be at the disposal of all Provincial Governments than it has proved in the past in the three Presidencies, where its existence is due to the fact that in the three Presidencies the High Courts, with which the Advocate-General himself has an historical connexion, have themselves a history differing from that of the High Courts elsewhere. It is no part of our intention to suggest that the office of Advocate-General should, like that of the Law Officers here, have a political side to it; indeed, our main object is to secure for the Provincial Governments legal advice from an officer not merely well qualified to tender such advice but entirely free from the trammels of political or party associations, who would retain his appointment for a recognised period of years irrespective of the political fortunes of the Government or Governments with which he may be associated during his tenure of office. We think in particular, that the existence of such an office would prove a valuable aid to a Ministry in deciding the difficult questions which are not infrequently raised by those prosecutions which require the authority of the Government for their initiation, though we recognise that the responsibility for decisions in these matters must of necessity rest in the last resort on the Government itself. We recommend, therefore, in order to secure the objects which we have in view, that the Constitution Act should require each provincial Governor to select

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at his discretion and appoint an Advocate General holding office during his pleasure, and should contain an appropriate definition of the functions of the office in the sense in which we have described them above.

Other legal officers.

377. We understand that the Governments of the Provinces to which the office of Advocate-General is not at present attached have to rely for their legal advice either upon an officer, selected usually

from the cadre of District Judges, who fills the post of Legal Remembrancer, or upon the member of the legal profession appointed in each District to act as Government Pleader and Public Prosecutor. Our proposal for the creation of the office of Advocate-General in every province will not of course affect the necessity for retaining the existing appointments of Government Pleader and Public Prosecutor; nor do we contemplate that an Advocate-General would be in administrative control of these functionaries. And, although our recommendations are based on the assumption that the Provincial Government will seek the opinion of the Advocate-General on any legal question of importance on which advice is needed, there will still arise in day to day administration numerous matters of less importance which raise legal questions, for dealing with which the services of a Legal Remembrancer will, we have no doubt, continue to be required; indeed we understand that such an officer is found necessary in the three Provinces which at present have an Advocate-General.

The Federal Advocate General.

378. The historical association with the Government of India of the High Court of Judicature at Calcutta (which, if our recommendations are accepted, will now be terminated, thus placing the High Court in the same relations with the Provincial Government as in the case of all other High Courts) accounts for the fact that the Advocate-General of Bengal acts as a Law Officer not only to the Bengal Government, but also to the Government of India. We think that there can be no justification for continuing this anomalous arrangement, which became still more anomalous when Calcutta, the permanent home of the Advocate-General, ceased to be the headquarters of the Government of India. But it will be in our opinion of the first importance that the Federal Government should have at its disposal the services of an Advocate-General of its own, and this need will be the more marked with the establishment of the Federal Court, before which the Federal Government will require to be represented by an Advocate of standing and repute. Here also we think it essential that the Advocate-General should hold his office on a settled tenure and should have no political associations with the Federal Ministry, and provision for his appointment (which would in this case also be made by the Governor-General acting in his discretion) and functions should be on the same lines as we have indicated in the case of the Provincial Advocates-General.

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(12) The High Commissioner for India

The High Commissioner.

379. There has been a High Commissioner for India in London since 1920. Orders in Council framed under Section 29A of the Government of India Act make provision for his appointment and duties, and various agency functions on behalf of the Government of India and Provincial Governments which were formerly discharged by the India Office have been transferred to him. Under the new Constitution it will be no less essential, and constitutionally even more appropriate, that there should be a High Commissioner, though the White Paper does not make any reference to this subject.

Appointment should be made by Governor-General in his discretion.

380. As the High Commissioner will no doubt continue to serve Provincial Governments as well as the Federal Government it seems to us appropriate that the appointment should be made by the Governor-General in his discretion, though we assume that he would consult his Ministers before doing so. It may be that some of the States which accede to the Federation would also find it useful to employ the agency of the High Commissioner for some purposes, and we consider that it should be open to them to do so.

Duties of High Commissioner.

381. It will no doubt be necessary for the Constitution Act to make appropriate provisions on various matters connected with the High Commissioner, such as the making of contracts and the safeguarding of existing rights of members of his staff who were originally transferred; and it may well be that examination will show that it is the High Commissioner who will be the appropriate authority to assume the liability to be sued in this country in respect of obligations of a Government in India and that provision to that effect should be made in the Constitution Act.

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(13) Transitory Provisions

Transitory provisions necessary, if Provincial Autonomy precedes Federation.

382 We have expressed the opinion[1] that, while it is desirable, if not essential, that the same Constitution Act should make provision both for the establishment of autonomy in the Provinces and also for the establishment of the Federation, the establishment of Provincial Autonomy is likely to precede in time the inauguration of Federation. It is clear therefore that the Constitution Act should contain provisions of a transitory nature which will, on the inauguration of Provincial Autonomy, settle the constitution and powers of the Central Government and Legislature which are for the time being to co-exist with the autonomous Provinces, until such time as they can be replaced by the Federal Government and Legislature for which provision will be made in the Constitution Act.

Proposals in White Paper.

383 This matter is dealt with very briefly in the White Paper.[2] The scheme there contemplated is that the Constitution Act will contain provisions enabling temporary modifications to be made in the provisions relating to the Federation, so as to enable the present Indian Legislature to continue in existence, to suspend the operation of the provisions relating to the Council of Ministers to be appointed by the Governor-General, and to provide during the interim period for the administration of all Departments of the Central Government by the Governor-General, with the assistance of Counsellors responsible to himself, as though they were Reserved Departments. Examination of these proposals has led us to regard them as not in all respects appropriate: for instance, one effect (which we understand was not in fact in the minds of His Majesty's Government when the proposal was framed) of treating all Departments of the Central Government as for the time being Reserved Departments within the meaning of the White Paper would be to remove from the purview of the Legislature all supply required for Central purposes and to make it non-votable. We fully accept so far as it goes the general intention stated in the White Paper as underlying these proposals, viz., that the Central Government, though necessarily deprived of much of its present range of authority in the Provinces, should for the time being be placed in substantially the same position as that occupied by the Governor-General in Council under the existing Act. But we are of opinion that the actual method proposed in the White Paper for securing this result is not the best available, and, indeed, that the purpose to be achieved is not fully stated.

Objects to be secured.

384. We do not attempt to set out in detail the method which should be adopted to secure the object in view, since we recognise that the problem is largely one of the technicalities of draftmanship. We think it right however to indicate the general purposes which, by whatever method, ought in our opinion to be attained as the

[1] *Supra*, para. 154.
[2] White Paper, Proposal 202.

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result of these transitory provisions. It is clear in the first place that it will be necessary to keep in being the existing Central Legislature, composed as at present and elected upon the existing franchise, and with the existing number of nominated members, official and non-official, and in the second place, there should in our opinion be no necessity during the transitory period to alter the composition of, or the method of appointment to, the existing Central Executive. But, granted these two premises, it is equally clear that the establishment of Provincial Autonomy will necessitate consequential changes in the powers of both the Central Legislature and Executive which will differ but little from the changes which will result from the establishment of Federation.

Modifications in White Paper proposals recommended.

385. Provincial Autonomy as envisaged by our recommendations necessitate, no less than Federation, a statutory distribution of legislative powers between the Central and Provincial Legislatures, and a distribution which will be identical with that contemplated under Federation. Similarly, Provincial Autonomy will involve, so far as the Provinces are concerned, the same statutory distribution of financial powers and resources as that contemplated under Federation. And, in order to determine questions arising between Centre and Provinces out of their legislative and financial relationships, a Federal Court will be no less necessary during the interim period than under Federation. So far as the Executive concerned, Provincial Autonomy involves the same limitations upon the powers of the Central Executive in relation to the Provinces as will be involved for the purposes of Federation, and, in that connexion, it will be no less necessary under Provincial Autonomy than under Federation to differentiate between the functions of the Governor-General in Council (at the moment a corporate body, exercising corporately with very narrow exceptions all the functions of the Central Executive) and those of the Governor-General. In other words, it will be as necessary under Provincial Autonomy as under Federation to give the Governor-General personally that control over the Governors in the exercise of their special responsibilities and of matters left by law to their discretion which is involved in our proposals relating to Provincial Autonomy, and to make it clear that the power which under Federation will vest in the Governor-General acting in his discretion to give mandatory directions through the Governors to Provincial Governments, with which we have already dealt[1], must be vested during the transitory period also in the Governor-General acting in his discretion. We consider further that the recommendation which we have made[2] with regard to the settlement of disputes between Province and Province, or between the Centre and a Province, with regard to water rights should also be brought into force during the transitory period, and that from the date of the

[1] *Supra* paras 220-22
[2] *Supra* para 224

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inauguration of Provincial Autonomy the Governor-General should become solely responsible for the control of the relations between the Crown and the States.

Details should be left to draftsman.

386. Such, in our view, are the purposes which any transitory provisions should be designed to secure, and, as we have already indicated, we think that it should be left to the ingenuity of the draftsman to suggest to His Majesty's Government the best and most appropriate method of carrying them into effect.

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PART III.

BURMA

(1) Introductory.

The "Burma White Paper."

387. The White Paper, as we have said elsewhere, does not deal specifically with Burma, because at the date when it was issued opinion upon the constitutional problem appeared to be still indefinite. The Secretary of State has, however, submitted to us Proposals for a scheme of constitutional reform in Burma, which are set out in a document very similar to the White Paper. This document has been printed among the Records of the Committee, and it will be convenient to refer to it hereafter as "the Burma White Paper"; but the Secretary of State has made it plain that, unlike the Indian White Paper, its recommendations are not to be taken as representing the final and considered policy of His Majesty's Government, but only as a first sketch of the main lines of a possible Constitution, if Burma is separated from India. Since this document was submitted to us, we have had the advantage of full discussions with the Burma Delegates, who also furnished us before and after their departure from this country with a number of memoranda on the Proposals, to which we have given our close attention and which have been of great value to us. These memoranda are also printed among the Committee's Records.

Subjects to be discussed.

388. We propose in this part of our Report to give first a short account of Burma and of the reasons which have led us to the conclusion that it should not form part of the Indian Federation; secondly, to consider the very important question of the trade relations between India and Burma after separation; and thirdly, to set out our recommendations as to the future government of the country in the form of a commentary upon the Burma White Paper.

The Province of Burma.

Area of Province.

389. Burma is the largest of the Provinces which at the present time constitute British India. It extends from the high mountainous area in latitude 28° N., where the unadministered tribal tracts of Assam and Bengal march with Tibet and China, to the mouth of the Irrawaddy, latitude 16° N., and to Victoria Point, latitude 9·58° N., on the narrow Malay Peninsula, which divides the Gulf of Siam from the Bay of Bengal. Its total area is some 234,000 square miles; Madras, the next largest Province, has an area of about 142,000 square miles. The population of Burma is, however, only 14,500,000, which is less than the population of any other Indian Province, except Assam and the North-West Frontier Province, with areas of 49,000 and 13,000 square miles respectively.

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Physical features.

390. The Province falls into three main geographical divisions; on the west Arakan, lying between the Bay of Bengal and the range of hills known as the Arakan Yomas, which mark the western side of the Irrawaddy basin; in the centre the Irrawaddy basin, which is in many ways the heart of Burma and the true home of the Burmese people; and on the south-east the long narrow strip comprising the old province of Tenasserim, which runs down the west side of the Malay Peninsula to Victoria Point, and which with Moulmein as its capital was the nucleus of British territorial dominion in Burma. The physical characteristics of these three divisions present striking contrasts; and it is a far cry from the City of Rangoon, planned and laid out on modern lines, with a population of 400,000 and a port

handling a volume of exports and imports only surpassed in India by Calcutta and Bombay, to the sparsely inhabited mountain tracts where the most primitive forms of cultivation afford a precarious living to isolated tribal communities. Political consciousness ranges correspondingly from that of the European educated barrister with nationalist ambitions as eager as any to be found in the Provinces in India to the entirely negative attitude of the Wa head-hunter or the tribesman of the Chin Hills, whose sole political emotion is probably an inherited antipathy for, and suspicion of, his cousin in the plains.

Its' isolation.

391. The steep and densely wooded mountains on the north and north west of Burma, where it marches with Assam, Manipur, and Bengal, cut off access from India, and on the east, where its neighbours are the Chinese province of Yunnan in the north, and French Indo-China and Siam in the south, effectively prevent intercourse with adjacent countries save by a few difficult caravan routes. Between continental India and Burma intercourse is and must be wholly by sea, and Rangoon is 700 miles by sea, a forty eight hours' voyage, from Calcutta, and 1,000 from Madras. In these circumstances it is not surprising that the influence of India upon Burma has been of the slightest; and to this we should add that, Buddhism being the prevailing religion, caste and communalism are unknown, though there are certain racial cleavages, and that the women of Burma are regarded socially and politically as on an equality with men. The Burmese language is spoken by the great majority of the inhabitants, though there are numerous local dialects. Of the total population some 10,000,000 are Burmans, 1,250,000 Karens, and 1,000,000 Shans inhabiting for the most part the frontier tracts; and of the non indigenous races the most numerous are Indians, who number approximately 1,000,000.

Summary of British connection with Burma.

392. Trading relations between the United Kingdom and Burma began in the latter part of the seventeenth century, but it was not until 1824 that, in retaliation for the invasion of Manipur and Assam by Burmese forces from Arakan, British troops from India were landed in Burma and seized Rangoon and the Tenasserim Coast,

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which by the Treaty of Yandabo in 1826 were, with Arakan, ceded to Great Britain. In 1852, following a series of outrages on British subjects by the Burmese Governor of Rangoon, for which no redress could be obtained from the Burmese King, the second Burmese War ended with the annexation of the province of Pegu; and ten years later the coastal districts of Tenasserim and Martaban, with Rangoon and Pegu, were formed into a Chief Commissioner's Province. The friendly relations which had been established in 1867 with King Mindon Min came to an end with the accession in 1878 of King Thibaw, who maintained himself on the throne by the ruthless massacre of all who opposed him, oppressed British traders, and finally entered into negotiations for alliances with European powers. In 1885 the Government of India presented the King with an ultimatum, which was rejected; a British force entered Mandalay without resistance; the King was deposed, and on 1st January, 1886 Upper Burma was by Proclamation annexed to the British Crown. Many years were occupied in restoring order, but gradually a regular system of administration was established; and in 1897 Upper and Lower Burma were constituted as a single Lieutenant-Governorship, with a Provincial Government and a Legislative Council, which originally comprised nine nominated members (including four

officials), and was gradually expanded until in 1920 it contained thirty members, two elected by the European Chamber of Commerce and the Rangoon Trades Association, and twenty-eight (including twelve officials) nominated by the Lieutenant-Governor.

Attitude of the political parties to separation

Burma and the 1919 reforms.

393. The Declaration of 1917, which held out prospects of advance to Burma no less than to other Provinces, encouraged the growth of a vigorous Home Rule movement, and also, as an immediate objective, a strong demand that Burma should enjoy as fully as the rest of India the advance towards responsible government made possible by the reforms of 1919. A series of deputations of Burman political leaders between 1918—1920 pressed for the application to Burma without restriction or diminution of the dyarchical system of government granted to the Provinces of India by the Act of 1919. In 1921 the Secretary of State decided to recommend to Parliament the extension to Burma of the reforms inaugurated by the Act, and the recommendation was endorsed by the Standing Joint Committee of Parliament on Indian Affairs on 25th May, 1921.

Burma constituted a Governor's Province

394. Particular questions, such as the franchise suitable to conditions in Burma, the composition of the Legislative Council, and the subjects to be transferred to the administration of Ministers, were remitted to a Burma Reforms Committee presided over by Sir A. F. Whyte. The proceedings of the Committee were hampered by a boycott organised by the General Council of Burmese Associations and the societies affiliated to it, who demanded a much more advanced

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Constitution than had been accorded to India and refused to have anything to do with dyarchy, a refusal persisted in until the autumn of 1932; but despite the boycott the Committee was able to carry through its task, and following on its Report Burma was constituted a Governor's Province in January, 1923 with a reformed Legislative Council, and a dyarchical system corresponding to that in other Provinces. There was, however, one notable difference: for in Burma the departments transferred to Ministers included from the outset the Forest Department, which in Burma is of peculiar importance, not only because of the considerable revenue derived from the forests, but also because no less than three fifths of the total area of the Province consists of forest land.

Co-operators and "anti-separationists"

395. The active political leaders in Burma who accepted as a first instalment the measure of self-government afforded by provincial dyarchy, did not on that account abandon their conviction that both on racial and on economic grounds it would be better for Burma to pursue her own distinct line of development at the first possible opportunity, and foresaw that such an opportunity would be likely to occur after the ten-year period prescribed in the Act of 1919. Accordingly they took their seats in the Legislative Council and when the time came, stated their opinions freely to the Indian Statutory Commission, who reported that they had little doubt that the resolution passed unanimously by the Legislative Council during their visit to Burma in favour of separation from India was the verdict of the country as a whole. On the other hand, the party which in 1922 had boycotted the Whyte Committee and had refused to enter the Legislative Council or co-operate in a dyarchical form of government, stood aloof and tendered no evidence before the Commission. Their unhelpful tactics have tended to obscure the fact that they too seek, and have steadfastly sought, as their ultimate objective, Burma's independence of India and the development of

the country on separate lines. The difference between them and what we may call the co-operating parties has, we think, been mainly one of tactics. Whereas the latter are and have been prepared to accept what is granted to the rest of India as a stepping stone to something better, the non-co-operators persist in rejecting every offer made and in standing out on every occasion for the impossible, in the belief that thereby they increase the prospect of extracting from the British Government and Parliament a more liberal constitutional scheme for Burma. They took the opportunity afforded by the election campaign in 1932 (which was to give the electorate a means of expressing through their elected members their views on the question of separation) to excite a wave of feeling not so much against the idea of separation as against the Constitution for a separated Burma outlined by His Majesty's Government at the close of the Burma Round Table Conference, on the ground that it, too, was, as it undoubtedly and inevitably is, dyarchical in nature. Having decided to reject the Constitution held out as a concomitant

of separation, they found it difficult to distinguish this policy from opposition to separation in the abstract; and, describing themselves for the purpose of the election as "anti-separationists," they were driven to advocating the only possible alternative, that is, inclusion in the Federation.

Both parties desire separation.

396. We have satisfied ourselves by discussion with the Delegates from Burma representing the anti separationist parties that they have no real desire to see Burma included in an Indian Federation, and indeed they frankly admit that on their own terms they would unhesitatingly prefer separation. The policy they have adopted contemplates only the inclusion of Burma in the Indian Federation on the basis of special financial and fiscal conditions (which so far as we have been able to understand them would be inconsistent with the fundamentals of a federal system), and on the understanding that at her chosen moment Burma would be at liberty to secede. We have no hesitation in describing this policy as wholly impracticable, and we can affirm that the Delegates from India who have been associated with us have just as little hesitation in ruling it out as incompatible with the conception of Federation. Its adoption by the Burman anti separationist leaders is to be explained, we believe, by the mistaken idea that if Burma, as a unit of the Indian Federation, were to take part in such further advances towards full responsible self government as may be made by the Federation, she would on leaving it at the moment of her choice start off on her own separate course so much farther forward in the direction of her ultimate constitutional goal. Criticism in detail of this conception of future possibilities would involve us in dangerous fields of speculation; and we think it sufficient to record our opinion that, even if Burma could be permitted to enter the Indian Federation and to leave it at will, it is certain that Parliament would still regard it as its function to regulate her constitutional status and her relations with other possessions of the Crown. The inference which we draw from our examination of the course pursued by the Burman anti separationists is that, in fact, they desire the separation of their country from India, but are distrustful of the consequences which may follow if the step is taken now; and we see no reason to dissent from the conclusion at which the Statutory Commission arrived that "so far as there is public opinion in the country it is strongly in favour of separation"; nor do we believe that a recommendation in this sense would seriously offend Burman sentiment in any quarter.

397. The question is not, however, one to be decided solely on considerations of sentiment. The Statutory Commission adduced many other most cogent grounds for the separation of the two countries—the absence of common political interests with continental India, the constant and increasing divergence of economic interests, the financial inequities (as they appear in Burman eyes) which association with India inevitably entails. They were also of opinion

Separation justified on practical grounds.

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that separation should take place at once. "We base our recommendation," they observed, "that separation should be effected forthwith on the practical ground that no advantage seems likely to accrue from postponement of a decision to a future date. The consitutional difficulties of securing Burman participation in the Central Government of India are not prospective but actual. They will grow with every advance in the Indian Constitution and will prejudicially affect not Burma only but India itself."[1] By the emergence into the field of practical politics of the proposal for an Indian Federation these arguments are greatly reinforced. It may be some time before the Federation is actually in operation; but already there are projects directly or indirectly ancillary to it which are rapidly taking shape, and the more deeply Burma became involved in these as a result of her present position as a Province of British India, the more difficult would be her disentanglement from them hereafter. We are, therefore, clearly of opinion that the separation of Burma, if it is to be effected at all, should not be postponed.

Commercial Relations between India and Burma

398. We should have no hesitation at all in endorsing the conclusion arrived at by the Statutory Commission, if it were not that grave doubts as to the material benefits likely to accrue to Burma as a result of separation have been expressed by persons well qualified to hold authoritative opinions on the complex problems involved. It may be an invidious task to balance national aspirations and sentiment against estimates of profit and loss; but we feel that it would be a sorry concession to Burman sentiment if we were to recommend separation without weighing carefully the possibility of a serious diminution, whether immediate or prospective, of material prosperity. We have alluded to the increasing divergence of economic interests to which the Statutory Commission drew attention; and further evidence of this divergence has been provided by events since the date of their Report. It is said that if Burma were separated from India she would be free to develop her own fiscal policy on lines which are impossible for her while she is tied to India, and that only by separation can she secure the freedom to do so. The matter is, however, not quite so simple. Separation would undoubtedly enable Burma to evolve a fiscal policy more suited to her peculiar needs than the high tariff policy of the Government of India; but it takes time to develop a policy, and still more to gather its fruits, and separation must have consequences of immediate effect, both financial and economic.

Economic effects of separation.

399. An apportionment of assets and liabilities between the two Governments would have to be made, as well as of revenues and charges which are now classified as central. The Statutory Commission examined the probable results of such an apportionment,

Tariffs and separation.

[1] Report, Vol. II, para. 224.

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and a more detailed but still incomplete investigation of this aspect of the question was made after the first Round Table Conference, the results of which are embodied in the Report known as the Howard Nixon Report. The joint investigators were not able to agree as to the basis of adjustment to be adopted in respect of certain charges, and the statistics on which they worked have been substantially affected by the general economic depression, to which Burma, depending almost entirely on the export of natural products, has been exposed as severely perhaps as any country in the world. But we are satisfied, after examining the more recent statistics furnished to us by the Government of Burma, that Burma is at any rate not likely to be any worse off in respect of net revenue as a result of separation and indeed if economic conditions improve may gain considerably. But as regard the immediate effect on trade the position is not so clear. A very considerable trade between Burma and India averaging in value in normal times some 40 crores (or £30 million) a year has grown up in the 48 years since Burma was fully annexed to India and it has grown up on a tariff free basis, the Province of Burma being within India's tariff wall. These conditions would be wholly altered by the act of separation. Burma would cease to be [illegible] than a political, part of British India and if nothing is done to prevent it the tariff of each country would apply against the other.

Effect of tariffs on India Burma trade

400. We conceive that one essential provision in any Constitution that may be devised for Burma in the event of separation will be that existing Indian tariff [illegible] continue to have effect in Burma after separation unless and until [illegible] repealed by the Burma Legislature. Some such general provision would in any event be necessary in order to preserve the basis on which the administration may be carried on without interruption but if it extended to the Indian Tariff Acts and the Schedules attached to them the result would be that Burma would have to levy the customs duties prescribed by these Schedules on all goods imported into Burma, including goods imported from India which hitherto have been free from duty, and similarly with India in the case of goods imported from Burma. Of Burma's total exports averaging in normal times about 56 crores (£42 millions) per annum about 48 per cent (or £18 millions) go to India representing about 14 per cent of India's total imports. Of Burma's total imports averaging in normal times about 28 crores (or £21 millions) per annum, about 42 per cent (or £9 millions) are from India representing 5[illegible] per cent of India's total exports. Thus the India Burma trade constitutes nearly half of Burma's export and import trade and an appreciable portion of that of India, and it is clear that the heavy duties of the Indian protective tariff might have a serious effect upon it.

Suggestions for a Trade Convention

401. We recall that the Burma Sub-Committee of the First Indian Round Table Conference while advocating the principle of separation, expressed the hope that it might be found possible to

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conclude a Trade Convention between India and Burma, and stressed the importance of causing as little disturbance as possible of the close trade connections which at present exist between the two countries. Detailed suggestions for such a Convention were submitted to us by the Burma Chamber of Commerce, and we have had the advantage of studying memoranda on the subject furnished by

the Delegates who represented that Chamber and the Burma-Indian Chamber of Commerce and who also gave oral evidence before us. Briefly, the suggestion is this: that until such time as the two new Governments are able themselves to conclude a Trade Agreement, the existing fiscal relations between India and Burma should be maintained by special statutory provision in the two Constitution Acts. This suggestion, if adopted, would leave Burma bound for the time being to impose on imports from other sources than India the duties scheduled to the existing Indian Tariff Acts. But one of the principal considerations urged in favour of the separation of Burma from the rest of India is that the heavy duties imposed by India on certain classes of manufactured goods for the protection of Indian industries are detrimental to the interests of Burma, which demand the cheap importation of such commodities as manufactured iron and steel. The Chamber of Commerce would meet this difficulty by giving liberty to both countries to alter their tariffs (which would at the outset be identical) in relation to third countries (subject to arrangements designed to prevent the import of goods on which the tariff might have been lowered into either India or Burma, as the case might be, in order to re-export to the other), with a proviso that neither country shall without the consent of the other vary existing tariff rates in respect of an agreed list of goods or commodities, that is to say, goods or commodities in respect of which either India or Burma enjoys, by virtue of the existing freedom of trade between them, a preference so valuable that any reduction of it would seriously affect the trade in that article between the two countries.

402. These proposals are at first sight attractive, but they rest on a hypothesis which we believe is not likely to be substantiated in fact. The Memorandum of the Chamber of Commerce strongly deprecates the assumption that the Government of Burma will need any additional revenue which might result from taxing the India-Burma trade. It assumes on the contrary that as the result of the financial settlement with India, Burma will gain to an annual extent sufficient, even in the present depressed conditions, to give her a small surplus with which to meet new expenditure. We are informed that the Government of Burma do not share this view, and anticipate that, even allowing for a favourable settlement, the future Government of Burma will need to raise some revenue from trade with India. But however that may be, it is obvious that whatever gain the settlement may bring to Burma, it will involve an approximately equal loss to Indian revenues: and the Government of India, we understand, The suggestions criticised.

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have no doubt at all that they will have to look to taxes on the trade with Burma to make good some of this loss. It may be assumed therefore, that after separation it will not be possible, on the Indian side at any rate, to maintain even for a short period an India-Burma trade free of customs duties: and when one invasion of the free trade system has been made, compensating adjustments will probably be required all round.

403. A departure from complete freedom of trade need not in all cases seriously prejudice trade between India and Burma, which depends not so much on the absence of duties as on the margin of protection afforded against competing goods from other sources; and it may well be that in respect of several classes of goods exchanged by Burma and India the imposition of a light import duty would not materially affect the flow of trade. This, however, could only be Moderate tariffs not necessarily injurious to trade between the two countries.

ascertained by expert examination of the trade item by item; and we are of opinion that the first step to be taken is that Burma and India should agree on a list of goods on which duties could safely be imposed up to a prescribed limit sufficient to secure the India-Burma trade against dislocation. It would also be necessary to deal with the question of substituting equivalent import duties for the excise duties at present imposed in India on Burma products, and *vice versa*. To secure its object, such an agreement would have to be operative from the moment of separation, and it must therefore have been concluded before the new Governments are established, *i.e.*, between the existing Governments. But an agreement by the existing Governments can only be made binding on the Governments to be established by the new Constitution Acts by statutory provision in both Acts.

Burma may desire to reduce existing high tariffs on certain goods.

404 Though the primary purpose of any agreement imposed upon the new Governments of India and Burma by the Constitution Acts would be the regulation of India-Burma trade with the minimum disturbance of its existing conditions, this cannot be achieved in isolation The imposition of duties on goods previously exchanged between India and Burma on a no duty basis may affect the questions of the duties properly leviable by either country on competing goods from other sources Moreover, Burma may desire to reduce the high protective duties at present imposed by the Indian tariff on certain manufactured goods imported from outside This is recognised by the Burma Chamber of Commerce, and their representative in his supplementary memorandum, makes specific suggestions for dealing with the case, and also with the question of re export from the country of the lower tariff to the other country The agreement should, therefore, contain as its secondary purpose provisions enabling either country to vary its tariffs on goods from outside sources, but within prescribed limits, so as not to defeat the primary purpose for which it is made

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Period during which a Trade Convention should continue in force.

405 An agreement of this kind embodied in the Constitution Act, even though mutually advantageous to the two countries, must necessarily constitute to some extent an encroachment upon the fiscal liberty which Burma after separation is to enjoy, and which India already enjoys. The encroachment would be less, if the agreement provided full opportunity to both parties to vary details by mutual consent during its currency; but it is in any event desirable that the agreement itself should continue for the shortest period which is compatible with the securing to those concerned in the India-Burma trade of a reasonable measure of certainty as to the immediate future One possible course would be to impose the agreement for an undefined period subject to denunciation by either country at reasonable notice, say twelve months. If the agreement proved to be congenial to the needs of both, such an arrangement might promise the greatest prospect of stability; but there is a risk that national *amour propre* might lead one or both of the new Governments to denounce it as soon as it had the power to do so, with the result that the agreement might last for little more than the period of notice. Another course, advocated by the Burma Chamber of Commerce, would be to enact that the agreement should continue until replaced by another concluded between the two new Governments. This, however, would give one Government, if it found that it enjoyed an advantage at the expense of the other the option of retaining that advantage indefinitely; nor do we think that it would be fair to impose upon the future Government of Burma

in the period immediately following separation the heavy burden of negotiating an intricate Trade Agreement. In our opinion, it would be best that the agreement should last for a definite period of one or more years, either Government having the right thereafter to give twelve months' notice to determine it; and that it should contain provisions for the mutual adjustment of details from time to time during its currency, where both parties desired such adjustments to be made.

Statutory provisions recommended

406. We recommend, therefore, that the Governor-General of India and the Governor of Burma shall be respectively empowered in their discretion (i) to apply for a prescribed period to the exchange of goods and commodities between India and Burma a scale of customs duties which shall have been mutually agreed between the existing Governments of India and Burma, or determined by His Majesty's Government in default of agreement, the scale not to be susceptible of variation during the prescribed period except by mutual consent; and (ii) to apply to specified classes of goods and commodities imported into either country from outside sources such variations of the duties imposed by the Indian Tariff Schedules at the date of separation as may have been mutually agreed by the existing Governments of India and Burma before separation, or determined by His Majesty's Government in default of agreement, or as may be mutually agreed thereafter by the two Governments during the prescribed period.

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Immigration of Indian labour.

407. The negotiations for a Trade Agreement might also be extended to the regulation of the immigration of Indian labour into Burma for the first few years after separation. We allude elsewhere in our Report to the desirability of withholding from Indian-British subjects the unrestricted right of entry into Burma after the separation, in order that the Government and Legislature of Burma may be free to regulate the influx of cheap labour in competition with the indigenous sources of supply. The problem is already acute, as the Royal Commission on Labour in India have recorded, and we endorse the opinion expressed by that Commission that the best way of solving the problem is by mutual agreement between the two Governments concerned. But the period immediately after separation is evidently not the most suitable opportunity for negotiating an agreement on a matter which is peculiarly capable of provoking lively animosities, and we are of opinion that, whether or not in direct connection with an agreement to regulate trade relations, at any rate at the same time, an agreement to control the influx of Indian labour into Burma should be concluded between the existing Governments. Such an agreement, which might conceivably run for the same period, and be determinable on the same notice, as the Trade Agreement (though this is a point on which we wish to make no definite recommendation), would also need to be given statutory force by the two Constitution Acts, so as to be effectively binding on the new Governments for the period of its validity.

Conclusions.

408. The difficulty of regulating the economic relations of India and Burma in the period immediately following separation has presented itself to us as the most serious obstacle to a recommendation in favour of separation, which on all other grounds seems plainly to be indicated. We were much impressed by the views of the Delegates representing commercial interests, both European and Indian, on the disturbance of India-Burma trade which might result from separation. We believe, however, that an agreement such as we have suggested would enable both countries to tide over the

critical period, and in these circumstances we regard ourselves as justified in recommending that the separation of Burma from India should be effected simultaneously with the introduction of the constitutional changes which we have recommended in the case of the other Provinces of India.

(2) The Burma White Paper

The Government of Burma a unitary government

409. Before considering in detail the proposals in the Burma White Paper we have certain preliminary observations to make. It is in the first place evident that a new Constitution for Burma, whatever may be its precise form, must differ in many respects from that which we have recommended in the case of the Governors' Provinces in India. The Government of Burma will be a unitary

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government, and therefore no question of any distribution of executive or legislative powers will arise, since the Government will unite in itself all the powers which in a Federated India will be divided between the Federal and Provincial Governments.

The Karenni States

410. Next we desire to draw attention to some of the legal consequences of separation. On the Indo-Siamese frontier of Burma lies the territory known as the Karenni States, whose independence was guaranteed by a treaty with the former Burmese Kingdom in 1875. These States are not a part of British India, but are nevertheless part of "India" as defined by the Interpretation Act, 1889, because under the suzerainty of the Crown exercised through the Governor-General. They are under the direct control of the Government of Burma, jurisdiction in them being exercised by the Governor on behalf of the Governor-General by virtue of powers delegated under the Foreign Jurisdiction Act; but their constitutional position seems to differ in no respect from that of Indian States in which the Crown exercises jurisdiction by treaty, usage or otherwise. The jurisdiction therefore which is at present exercised by the Crown through the Governor-General of India and through the Governor of Burma by virtue of the powers delegated to him will have to be resumed into the hands of the Crown and thereafter exercised directly through the Governor of Burma without the intervention of the Governor-General of India. The Burma White Paper rightly proposes that the first of these objects shall be secured by the Constitution Act itself; for the second a new Foreign Jurisdiction Order in Council will clearly be required.

Application of Acts of Parliament extending to His Majesty's Possessions outside British India

411. We assume that provision will be made for the continued application to Burma after the separation from India of all Acts of the Imperial Parliament which extend at the present time to Burma as a part of British India. But there are a number of other Acts of Parliament which apply to His Majesty's overseas possessions exclusive of British India, and when Burma ceases to be a part of British India it would seem that those Acts would, in the absence of provision to the contrary, apply to Burma as they apply elsewhere. Thus, all Acts which are declared to extend to 'colonies' would at once become part of the law of Burma, since "colony" is defined in the Interpretation Act, 1889, as "any part of His Majesty's dominions exclusive of the British Islands and of British India." Our attention has been drawn in this connection to the Colonial Laws Validity Act, 1865, some of the provisions of which appear to be quite inconsistent with any Constitution which we could contemplate for Burma. We think that special provisions will be required in the Constitution Act to deal with this point, and we

agree also with the Secretary of State that no room should be left for any suggestion that the new status of Burma will be assimilated to that of a Crown Colony. Apart from this, it will obviously be necessary to make provision for the continued application to Burma

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of existing British Indian laws, until repealed or amended by the Burmese Legislature or other competent authority; but there will have to be some machinery for adapting those laws to meet the new constitutional situation, as, for example, by substituting the Governor of Burma for the Governor-General in Council, where the latter expression occurs in an existing Act.

Agreements at present binding upon Burma as a part of British India.

412. It is proposed that the Constitution Act should declare that all rights and obligations under international Treaties, Conventions or Agreements which before the commencement of the Act were binding upon Burma as part of British India shall continue to be binding upon her.[1] A similar provision is to be found in section 148(1) of the South Africa Act, 1909, the Act which constituted the Union of South Africa. In that case, however, the States or Provinces by or on whose behalf the Treaties, Conventions or Agreements had been made became part of a new and larger organism, which necessarily assumed responsibility for all the existing obligations of its constituent members; but we are not clear that the case of a State which becomes autonomous by separation from a larger State is precisely analogous, at any rate so far as rights as distinguished from obligations are concerned, and we are disposed to think that the matter may require some further examination.

His Majesty's title in relation to Burma.

413. We should mention here that the Delegates from Burma, both in a Joint Memorandum signed by several of them and orally before us, expressed the hope that His Majesty might be pleased to adopt the title of King-Emperor of Burma. It would not be proper for us to express any opinion on this suggestion until His Majesty's pleasure had been taken; but we may perhaps be permitted to make the following observations. His Majesty's full style and title is "George V by the Grace of God of Great Britain, Ireland, and of the British Dominions beyond the Seas King, Defender of the Faith, Emperor of India"; and Section 1 of the Government of India Act therefore correctly describes the territories for the time being vested in His Majesty in India as governed "by and in the name of His Majesty the King, Emperor of India". From this it is clear that, though it is not incorrect to speak of His Majesty in relation to His Indian Empire as "The King-Emperor," the expression "King-Emperor of India" is not legally a part of His Majesty's style and title. Hence a reference to Burma in the Royal Title could, subject to His Majesty's consent, only be introduced by legislation, which, since the Statute of Westminster became law, would require the concurrence of the Dominion Governments. The Delegates also desired that the Governor should in future be known as the Governor-General of Burma: but this too is a matter on which we think that His Majesty's pleasure would have to be taken.

[1] Burma White Paper, Proposal 5.

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The Executive

The Executive Government.

414. The proposals in the Burma White Paper with regard to the Executive follow generally those in the India White Paper with regard to the Executive Government of the Federation and of the Provinces; that is to say, executive power and authority is to be

vested in the Governor as the representative of the King, aided and advised by a Council of Ministers.[1] We approve these proposals in principle, and it is not necessary to repeat what we have already said on the subject in the earlier part of our Report; but there are certain divergencies between the India and Burma White Papers to which we should draw attention, as well as other points which arise only in the case of Burma.

Law and Order.

415. The Council of Ministers will have a constitutional right to tender advice to the Governor in the exercise of the powers conferred upon him by the Constitution Act, other than powers connected with certain Departments which will be reserved for the Governor's own direction and control and matters left by the Constitution Act to the Governor's own discretion; but the Governor will be declared to have a special responsibility in respect of certain matters and where they are involved will be free to act according to his own judgment. The matters which it is proposed shall be reserved to the Governor's own direction and control, are Defence, External Affairs, Ecclesiastical Affairs, the affairs of certain Excluded Areas, and monetary policy, currency and coinage. With these we deal later, but we point out that they do not include law and order, which will, therefore, fall within the ministerial sphere, as it will in the Indian Provinces, if our recommendations are accepted. We are of opinion that the responsibility for law and order ought in future to rest on Ministers in Burma no less than in India, and for substantially the same reasons. From one point of view, the problem is less difficult in Burma, because of the absence of communal feeling; but on the other hand, serious crime, especially crimes of violence, appears to be more rife in Burma than in India. In proportion to population, the percentage of murders, dacoities and cattle thefts exceeds (and often greatly exceeds) the percentage in almost every other Province of British India, though there is a marked absence of that form of crime known as terrorism. Nevertheless, though the need for an efficient and disciplined police force in Burma is manifest, we do not think that Burma should be deprived of the opportunity which in our judgment ought to be afforded to the Indian Provinces in this sphere.

The Burma Police.

416. The police in Burma consist of two civil police forces:—(1) the District Police and the Rangoon Police, which are organised on much the same lines as the police forces in the other Indian Provinces and whose main duty is that of detecting and preventing

[1] Burma White Paper, Proposals 8–20.

crime, and (2) ten battalions of the Burma Military Police. Six battalions of the latter are frontier battalions, stationed almost wholly in the excluded tribal areas contiguous to the frontiers, and may be described as a watch and ward gendarmerie. Of the other four battalions, one is a reserve battalion which provides drafts mainly for the frontier battalions and is also responsible for the protection of the railways in times of internal disorder, and three are garrison battalions, two with headquarters in Rangoon and one in Mandalay. These, though organised on a battalion footing, serve in the districts in small detachments as patrolling parties and as a backing to the District Police, and also supply Treasury guards and prisoners' escorts. The latter service requires a well armed and highly disciplined personnel, and is entrusted in other Provinces to the so-called armed reserves of the civil police, which do not exist under that name in Burma.

Future organisation of Burma Military Police

417. We are informed that it is in contemplation to place the six frontier battalions and the reserve battalion of the Military Police directly under the Governor as part of the defence organisation, though it is not intended that they shall form part of the regular Defence Force or lose their primary police character. If, as we understand, these battalions are at the present time stationed in the Excluded Areas in proximity to the frontiers, it would clearly be impossible to transfer them with the ordinary civil police to the control of a Minister, and the proposed arrangement seems to us a reasonable and convenient one. We are informed also that in times of grave internal disorder the reserve battalion, and to a limited extent the frontier battalions also, have been called upon to act as additional police outside the Excluded Areas, before recourse is had to military aid, and if in future they become part of the defence organisation under the control of the Governor, it would be possible for the latter in the exercise of his special responsibility for the prevention of grave menace to the peace or tranquillity of Burma to deal effectively with a threatened outbreak without the use of troops, or alternatively to place additional forces at the disposal of the Minister for the same purpose.

Garrison battalions of Military Police

418. It is intended, we understand, that the three garrison battalions should pass under the control of the Minister responsible for law and order as part of the police force of the Districts, and they would thus correspond to the armed reserves of the civil police in the other Provinces. The frontier and reserve battalions would, however, be available as a reserve striking force in the event of serious disturbance wherever it might occur, or to provide reliefs for men on continuous duty in the districts. These proposals seem to us to be well conceived. The Governor's responsibility for the preservation in the last resource of law and order in Burma may well be heavier than in many of the Indian Provinces, but his position will be stronger in that he will have under his own control the

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Department of Defence and the resources which it can afford in the way of additional military police as well as of troops. We have only one suggestion to make. In view of the reservation to the Governor of the Department of Defence we are disposed to think that the designation of the three garrison battalions which will henceforth be under the control of the Minister as Military Police may tend to confusion. We suggest, therefore, that some other designation should be adopted, and perhaps "the Burma Constabulary" might be regarded as appropriate.

The Governor's special responsibilities.

419. The Governor is to have a special responsibility in respect of (*a*) the prevention of any grave menace to the peace or tranquility of Burma or any part thereof; (*b*) the safeguarding of the financial stability and credit of Burma; (*c*) the safeguarding of the legitimate interests of minorities; (*d*) the securing to the members of the public services of any rights provided for them by the Constitution Act and the safeguarding of their legitimate interest; (*e*) the prevention of commercial discrimination; (*f*) the administration of certain Partially Excluded Areas, and (*g*) any matter which affects the administration of any department of government under the direction and control of the Governor. It will be seen that these special responsibilities are substantially the same as those proposed in the case of the Governor General and Governors of Provinces, and all that we have said upon them elsewhere applies equally in the case of Burma. The suggestion in the Joint Memorandum submitted

by certain of the Burman Delegates that any dispute on the question whether in a particular case the Governor's special responsibilities are involved should be referred to the Privy Council for decision completely misapprehends the principle underlying the Proposals, and nothing would be more likely to check a healthy constitutional development than to make the relations between the Governor and his Ministers a matter of law rather than of constitutional usage and practice There are certain aspects of commercial discrimination in the case of Burma which are of sufficient importance to demand separate treatment, and we also leave for subsequent consideration the question of the Excluded Areas.

The Reserved Departments

Defence.

420' The subject of Defence has not the same importance in Burma as it has in India, for there is no North West Frontier problem; but, as the Statutory Commission observe, Burma has on her own borders a less definite but potential danger which, if it actually emerged in concrete shape, she could not deal with single-handed[1]. So long as this is so, it is clear that the Department of Defence must remain under the exclusive control and administration of the Governor; and the more so, since the main pre-occupation of those responsible for the defence of Burma must always lie in the vast Excluded Areas of

[1] Report, Vol. I, para 220

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the Province, which are also to remain under the Governor's control. It is proposed, and we think rightly, that the Governor should also have the title of Commander-in-Chief. The executive military power will be vested in him, as the head of the Executive Government, and the size of a Burma Defence Force would not in any event justify the separate appointment of a Commander-in-Chief for Burma. We have already mentioned the proposals which are in contemplation with regard to the transfer of certain battalions of the Burma Military Police to the defence organisation. The personnel of these battalions at the present time is, we understand, for the most part Indian, being drawn from men who have served their time with Indian regiments; and whether as time goes on it will be found possible to replace these with Burma personnel is not a matter on which we are competent to express any opinion We may refer to what we have said on this subject in connection with Indian army problems, but we desire also to point out that the policing and protection of the Excluded Areas which lie along the frontiers of Burma and which form so large a proportion of the total area of the country, involve military considerations of a special kind which do not arise in India We refer hereafter to the powers which the Burma Legislature will possess in connection with legislation for the enforcement of army discipline.

Other Reserved Departments.

421 External affairs and ecclesiastical affairs need no comment. The affairs of the Excluded Areas raise however, various questions which it will be more convenient to discuss separately[1]

Monetary policy, currency, and coinage.

422 The reservation to the Governor of matters relating to monetary policy, currency and coinage, differentiates the Burma White Paper proposals from those of India in a very important respect. In India it is proposed that the Federal Ministers shall be responsible generally for finance, the Governor-General having only a special responsibility for the safeguarding of the financial stability and credit of the Federation, with a financial adviser to assist him in the discharge of this responsibility But it has always been made clear

by His Majesty's Government that the establishment of a Reserve Bank, free from political influence, to which the management of currency and exchange could be entrusted, was a condition precedent to the transfer to Ministers of responsibility for the finance of the Federation. The Reserve Bank has now been established and has every prospect of success, and the condition precedent will therefore be fulfilled But there is no separate Reserve Bank in Burma, nor, so far as we are aware is it in contemplation to establish one, and we agree therefore that monetary policy, currency and coinage is properly reserved to the Governor

423 It is proposed to empower the Governor to appoint at his discretion not more than three Counsellors to assist him in the administration of the Reserve Departments He will also be empowered at his discretion, but after consultation with his Ministers *(The Governor's Counsellor and the Financial Adviser)*

[1] *Infra* paras 432 437

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to appoint a Financial Adviser to assist him and also to advise Ministers on matters regarding which they may seek advice The duties of the Financial Adviser will necessarily cover a wider field than those of the Financial Adviser to the Governor General of India, not only because of the reservation to the Governor of matters relating to monetary policy currency and coinage, but also because the Government of Burma will be a unitary Government uniting itself the financial powers which in India will be shared between the Federal and the Provincial Governments In these circumstances, we do not think that we can endorse the proposal in the Burma White Paper that one of the Counsellors may, at the discretion of the Governor be appointed Financial Adviser We assume that the proposal is based upon grounds of economy, but it seems to us that any saving in expense which might be effected by a combination of the two offices would be more than counterbalanced by the disadvantages which in our opinion would result We think that Ministers would be unlikely to avail themselves freely of the services of a Financial Adviser who was also in administrative charge of a Reserved Department and directly under the control of the Governor It is also very important that the Financial Adviser should be in a position in which he could take an impartial and independent view of the whole financial situation, in relation to both the Transferred and the Reserved Departments, and if he were at the same time one of the Governor's Counsellors he could scarcely avoid finding himself from time to time in a position in which his interest in one capacity conflicted with his duty in the other

The Legislature

424 It is proposed that the Legislature shall consist of the King represented by the Governor and two Houses, to be styled the Senate and the House of Representatives The Senate is to consist of not more than 36 members of whom 18 would be elected by the House of Representatives, and 18, who may not be officials, would be nominated by the Governor in his discretion The House of Representatives is to consist of 133 members, of whom 119 would be elected to represent general constituencies, and 14 to represent special constituencies The Governor General's Councillors are to be *ex officio* members of both Houses for all purposes, except the right *(The two Houses)*

to vote The Senate is not to sit for any fixed term, but one-quarter of its members are to retire every two years The House of Representatives is to continue for five years unless sooner dissolved [1]

Composition of the Houses and franchise

425 There are no detailed proposals with regard either to the composition of the Houses or to the franchise in the Burma White Paper but the Secretary of State has since submitted a Memorandum, which is printed among the Records of the Committee,

[1] Burma White Paper [illegible]

Page 23[illegible]

which contains valuable suggestions with regard to both these subjects [1] In our opinion suitable provisions can be embodied in the future Constitution Act on the basis of these suggestions but, though we give them our general approval there are nevertheless certain points in which we think that they require modification and to these we draw attention in the paragraphs which follow

Objections to system of rotational retirements for Senate.

426 We understand that in the case of those members of the Senate who are to be elected by the House of Representatives, the intention is to adopt the method of the single transferable vote So far as this is designed to avoid the necessity of communal representation, it has our cordial approval but we do not think that it will effect its object viz to secure adequate representation to substantial minorities if the proposal in the Burma White Paper is retained, whereby one quarter of the Senate retires at the expiration of every period of two years It has been pointed out in memoranda submitted to us by the Burma Chamber of Commerce and others that at the first election when the full number of 18 seats are to be filled and the requisite quota of votes will be light the European Indian and Karen communities at any rate could count on securing the election of their candidates but that at the ensuing periodic elections with only nine vacant seats to fill no minority candidate could be elected unless all the minority representatives in the Lower House pooled their votes because the necessary quota would be too large Alternative proposals have been made to meet this difficulty but none seem to overcome it entirely and after full consideration we have come to the conclusion that the system of rotational retirement is unsuitable and that the better plan would be to provide that the life of the Senate shall be for a fixed period of seven years unless it is sooner dissolved But even so the problem of casual vacancies which always causes difficulty under proportional representation systems has to be faced if the minorities are not to be placed in an increasingly unfavourable position as the seven years draw to a close We have considered more than one plan for meeting this difficulty none of which are wholly satisfactory and we think that the best course will be to provide that where a casual vacancy occurs in a seat held by the representative of a minority community only candidates of the same community as the vacating member shall be eligible We recognise that this to some extent introduces a communal element into the Senate which we regret but we do not see how in the circumstances it is to be avoided An alternative suggestion was that casual vacancies should be filled by the Governor's nomination but we have felt bound to reject this for reasons which it is unnecessary to elaborate

Composition of House of Representatives

427 The proposals for the composition of the House of Representatives are fully set out in the Secretary of State's Memorandum, to which we have referred They provide for 119 general

[1] Records [1933 34], A1, p 10

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constituencies and 14 special constituencies. Of the general constituencies, 94 would be non-communal, 12 Karen, 8 Indian, 2 Anglo-Indian, and 3 European. The special constituencies are the University of Rangoon, the Burmese Chamber of Commerce, the Burma-Indian Chamber of Commerce, the Burma-European Chamber of Commerce, the Chinese Chamber of Commerce, the Rangoon Trades Association (European), and Labour (two Indian and two Burman.). Out of the non communal constituencies, three seats would be reserved for women It will be observed that these proposals are based upon communal representation with separate electorates We had hoped that it would have been possible to abandon the principle of communal representation in the case of Burma, however necessary it may be for British-India, but we have reluctantly come to the conclusion that, for the present at any rate, this is an impracticable ideal It is true that there is very little religious cleavage in Burma, since, as we have already observed, toleration is a marked characteristic of the Buddhist creed. There are however racial cleavages; among the indigenous races there is a clear cut division between Burman and Karen, and the division between the indigenous and non-indigenous (mainly European and Indian) communities is as marked as is the division between the non-indigenous communities themselves We are not to be understood as suggesting that the different communities live otherwise than in amity with one another, although the feeling between Burman and Indian, especially as competitors in the labour market, from time to time becomes acute, but each community has its own culture and outlook on life, and these do not always blend It is also to be observed that the minorities have their own representation at the present time in the Burman Legislature, and we are clear that none of them would be prepared to abandon it, indeed, the Burman Delegates themselves with few exceptions, recognised, even if reluctantly, that the claim was one which must be met We therefore accept the proposals in principle, but we are glad to observe a suggestion in the Secretary of State's Memorandum that it should be permissible for persons who are not members of the communities concerned to stand as candidates for communal constituencies We endorse this suggestion, and we hope that it may help in the course of time to break down the barrier which at present exists

Women's seats.

128 It will be observed that three of the ninety four non communal seats are, under the proposals in the Memorandum, to be reserved for women The representative of the women of Burma informed us however, that Burman women did not desire this reservation, and we are satisfied that this is so In these circumstances the question arises whether these three seats should be eliminated altogether or assigned elsewhere possibly as an addition to the representation of special interests We are of opinion on the information before us that the special interests are already adequately represented, and that the total number of the House of Representatives should therefore be 130 instead of 133

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Franchise for House of Representatives.

129 We agree generally with the proposals in the Memorandum for the franchise for the Lower House, which will result in a substantial increase in the electorate The present electorate of Burma consists of 1,956,000 men and 124,000 women: and the proposals in the Memorandum will increase this number to 2,300,000 men and 700,000 women, or 23.26 per cent. of the total population,

as against 16·9 per cent. The increase in the number of women voters is very striking; the proportion to the adult female population is increased from 4 per cent to about 21 per cent., and the proportion of women to men voters from 1:14·3 to 1:3·5. In British India our recommendations would increase the number of voters from 3 per cent. of the total population of British India to 14 per cent., and the proportion of women to men voters from 1:20 to between 1:4·5 and 1:5; and it may be asked why Burma should be accorded such exceptionally favourable treatment. The answer to this is that the standard of living is considerably higher in Burma than in India and this is reflected in a franchise which is for the most part necessarily based on a property qualification. We are informed that, despite this large extension of the franchise, the Government of Burma regard the proposals as administratively practicable, and, that being so, we accept them. The representative of the women of Burma urged that a wifehood franchise should, as in India, be included, and, having regard to the position which women hold in Burma, we should have been glad to give favourable consideration to this suggestion. We are informed however that the inclusion of a wifehood franchise would increase the number of women voters to a figure approximating to 2,000,000, and that so great an increase in the electorate would present for some years to come an insuperable administrative obstacle. This we can well believe; and we may point out that this qualification has been adopted in India not so much on its merits as a means of reducing the disparity between the proportion of women and men voters to a ratio as low as 1:4 whereas, even without the wifehood qualification, the proportion in Burma would be approximately 1:3·5.

Powers of Legislature.

430. The proposals of the Burma White Paper with regard to the powers of the Legislature follow the same lines as those in the case of India and need no further comment except on two points. As in the case of the Indian Legislatures the Burma Legislature will have no power to make any law affecting the Army, Air Force, and Naval Discipline, Acts but it is likely that for some time to come Indian forces will be serving in Burma the members of which are subject to the corresponding Indian Acts, and it is clear that it should also be beyond the competence of the Burma Legislature to repeal or amend any of the latter Acts. There will also be certain restrictions on the power of the Burma Legislature to pass discriminatory legislation affecting persons domiciled in the United Kingdom; but questions will also arise as to their power to pass such legislation affecting persons domiciled in British India. This, however, is a

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matter which will be more conveniently discussed later when the subject of discrimination in general is being considered.

Relations between the two Houses.

431. Since the functions of the Government in Burma after separation will extend to all matters which in India will fall within the Federal as well as within the Provincial sphere, it would seem at first sight that the Senate in Burma should correspond, whether in size or in the extent of its powers, rather to the Federal Council of State than to any of the Provincial Legislative Councils. If the House of Representatives has 130 members, the Senate, on the Indian analogy, should have a membership of nearly 100. The proposals in the Burma White Paper, however, contemplate, as we have said, a Senate of 36 members only; and we understand that this accords generally with the views expressed at the Burma Round Table Conference. We do not think that any larger body would be

appropriate to the circumstances of Burma, but, that being so it must follow that the Senate must be regarded as a body having revisory and delaying powers like the Upper House in an Indian Province, rather than one possessing substantially equal powers with the Lower House, like the Council of State But since the powers of the Burma Legislature will extend over a wider field than those of the Provincial Legislatures in India, we think that the Senate may properly be invested with certain powers which a Provincial Legislative Council does not possess We accordingly recommend that though Demands for Grants should be a matter for the House of Representatives alone, it should be permissible to introduce Bills including Money Bills, in either House Conflicts between the two Houses should be resolved in the manner which we have recommended in the case of the Indian Provinces, with this modification, that it should be permissible for a Bill passed by the Senate, but rejected by the House of Representatives also to be referred for decision to a Joint Session

(3) SPECIAL SUBJECTS

(a) Excluded and Partially Excluded Areas

432 The Burma White Paper proposes that Excluded Areas should be reserved to the exclusive administration and control of the Governor but that Partially Excluded Areas should pass under the control of Ministers though the Governor will be deemed to have a special responsibility in respect of the administration of these areas The Excluded Areas are to be those areas which have been under the existing law notified as backward tracts the Partially Excluded Areas are to be those which are at the present time not removed from the jurisdiction of the Burma Legislature but which have been excluded from the operation of the Burma Rural Self Government Act and do not return members to the Legislative Council The area comprised in the first category extends to 90 200 square miles with a population of approximately 1 900 000 the

Distinction between Excluded and Partially Excluded Areas

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second to 27,000 square miles, with a population of approximately 370 000 and when it is remembered that the total area of Burma is 234,000 square miles, it will be seen that the Excluded and Partially Excluded Areas together comprise very nearly one half of the area of the whole Province though they are only inhabited by about one seventh of the population Various questions arise with regard to these areas which it is necessary to consider in some detail

433 In the first place the distinction which is at present drawn between the Excluded and Partially Excluded Areas appears to be to some extent an arbitrary one and we find it difficult to understand why some of the Partially Excluded Areas have never been notified as backward tracts though perhaps the reason may be, in some cases at any rate, that they are of so primitive a character that they have remained practically unadministered and it was therefore a matter of indifference whether they were classified in one category or the other The Secretary of State Memorandum[1] which we understand reflects the views of the Government of Burma suggests that, where an area has never been formally declared a backward tract and does not consist exclusively of hill district it is undesirable to withdraw it from the scope of Ministers and the Legislature and that it should therefore continue to be regarded as a Partially Excluded Area only We cannot accept this suggestion, nor do we agree that the omissions of the past should necessarily be perpetuated

Arbitrary nature of present classification

in the future. Such information as we have leads us to think that the Salween district should certainly become an Excluded Area. With regard to the others, our information is not precise enough to enable us to make detailed recommendations; but we are of opinion that the Government of Burma should be requested to examine the whole question *de novo* and to advise whether, notwithstanding the present legal position, any districts which it is proposed should form part of a Partially Excluded Area are of such a character that their notification as backward tracts would be justified, if the matter were at large.

Difference between Excluded Areas and rest of Burma one of kind and not of degree.

434 We have no doubt at all that the Excluded Areas should remain under the Exclusive administration and control of the Governor. The Joint Memorandum of the Burman Delegates expresses the opinion that there should be no wholly Excluded Areas except those included in the Shan States Federation; but the arguments advanced in support of this opinion seem to us to misapprehend entirely the reasons which underlie the proposals in the Burma White Paper. We do not think that we can do better than quote a passage from the Secretary of State's Memorandum, with which we find ourselves in complete agreement.

"It is important to remember that the word 'backward,' which is the technical term used to denote areas notified under Section 52A of the Government of India Act, 1919 may lead to a serious misunderstanding of the position. It suggests that

[1] Records [1933-34], VI, p 95

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the difference between these tracts and the ordinary districts is one of degree of development which will necessarily tend to disappear with time. This is far from the whole truth. The existing backward tracts are hill districts lying on the north, west and east of Burma, and resembling in their general characteristics the backward tracts along the eastern border of Assam. Their inhabitants, mainly Kachins, Chins and Shans, differ radically from those of the plains in race, religion, law, customs, and language, and most of these differences will be bridged, not by a simple process of development, but by the much slower and more difficult process of abandonment of their existing culture. It is the absence of common outlook and aspirations which is perhaps the main factor militating against the assimilation of the backward tracts in the hills in the political institutions of the plains. The history of the relations between the backward tracts and the plains is one of opposition and hostility, and the main reason for undertaking the administration of the tracts was the protection of the plains. Such feelings of antipathy die slowly in remote places; and the inhabitants of the backward tracts are still devoid of any real sense of community, political or otherwise, with the plains. Further, the inhabitants of the backward tracts are ignorant of conditions in the plains and those of the plains are equally ignorant of conditions in the tracts. It is true that since the annexation of Upper Burma, civilizing influences have been at work. The Kachins come down with confidence from their hills to market in the villages of the plains and mix more freely with the plainsmen, and in some areas they have come under the influence of missionaries. Kachins and Chins also are recruited to the Burma Rifles and Burma Military Police. But the fact remains that the plains and the backward tracts are different

words with no adequate mutual knowledge and no adequate contact by which such knowledge may be readily diffused. The 'backward tracts' in Burma are admittedly not ripe for representative institutions and have not, it is believed, shown any desire for them. The time will not be ripe for such a change until conditions in the tracts have undergone a fundamental change and until their inhabitants have learned to feel that they are part of a larger political whole. Such a state of affairs is not likely to come to pass within any period that can at present be foreseen. Meanwhile, the Provincial Legislature, however capable of legislating for the plains which it knows and represents, is clearly not qualified to legislate for people it does not represent and for conditions of which it has no adequate knowledge. Added to this is the consideration that law in the backward tracts is mainly customary law supplemented by simple regulations issued under Section 71 of the Government of India Act a very refractory substance for amalgamation with acts of the Legislature"[1]

[1] Records [1933-34], A1 p. 97

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The Shan States.

135 The Joint Memorandum of the Burman draws attention to certain financial arrangements in connection with the Shan States, and recommends that the contribution from Burma revenues to those States should cease and that the States should be required to pay their share of the cost of defence and general administration. We think that the Delegates are under some misapprehension in this matter, for we are informed that no such contribution has been made for the last two years, and that there is no intention of renewing it. We understand the intention to be that after separation the Shan States should be credited with a share of receipts from customs dues proportionate to the consumption of dutiable articles in their area, and with a similar share of income tax and other taxes which are at the present time central sources of revenue, but which will, after separation, be levied in Burma for the purposes of the local Government. The Shan States will in their turn contribute a fixed sum representing the share fairly allocable to them of central expenditure which will in future be borne by Burma, and of the cost of general administration from which the Sates derive benefit equally with the rest of Burma. This appears to us a reasonable arrangement. We should perhaps explain that the Shan States, though British territory are a quasi autonomous area administered by the Shan Sawbwas or Chiefs under the general supervision of the Governor, and that since 1922 they have been formed into a species of Federation for certain common purposes. The finances of the Federation have always been kept distinct from the provincial finances of Burma, and we think it desirable that this arrangement should continue. Special provision for this purpose will, we think, be required in the Constitution Act, and we are of opinion (1) that the share of revenue which the Shan States are to receive, as indicated above, and the contribution which they are to make to Burma revenues, should be fixed from time to time by Order in Council, (2) that the States' share of revenue, when fixed, should be a non-votable head of expenditure appropriated for the purposes of the administration of the States; and (3) that the contribution of the States should not be paid directly to Burma revenues but allocated to the Governor for the same purposes. The Burman Joint Memorandum suggests that the financial settlement between

the Shan States and Burma (i.e., the determination of the share of revenue and of the State's contribution) should be referred to an impartial tribunal and should not be left to be dealt with by the Governor. We understand that in fact a committee of three officers, one representing Burma, one the Shan States, with an independent chairman, has already been set up for the purpose of advising the Governor on this matter, and in these circumstances we do not think that any useful purpose would be served by the appointment of an extraneous tribunal.

Financial arrangements for Excluded Areas.

436. We understand the Burman Delegates also to suggest that the financial arrangements for other Excluded Areas should be the same as those for the Shan States, that their expenditure should be met* out of their own revenue, and that they should have

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a budget separate from the general Burma budget. There does not seem to us to be any true analogy between the two cases. The Shan States are a compact area, and for all common purposes form a single organised administrative unit; this cannot be said of any of the other Excluded Areas. We think, therefore, that the Burma White Paper rightly proposes that the money required for the administration of those areas, apart from the Shan States, should come from Burma general revenues, and should be a non-votable head of expenditure. We may, however, draw attention to the fact that the forests in the Excluded Areas are at the present time, and will continue to be, under the administration of the Forest Department, which since 1923 has been one of the transferred departments, and the Excluded Areas make a substantial contribution through this channel to the general revenues of Burma.

Karenni States and Namwan

437. We have mentioned previously the Karenni States, an area of 4,000 square miles with a population of 64,000 which lies on the eastern border of Burma and is not British territory. There is also a small non British enclave known as the Assigned Tract of Namwan, which is held on a perpetual lease from China in order to facilitate frontier transit questions. It is proposed that these two areas shall be treated on the same footing as Excluded Areas, and that the trifling sums required for administrative purposes in connection with them shall be treated as expenditure on an Excluded Area. In view of the smallness of the areas involved, this seems a convenient arrangement, but we assume that, since they are not British territory, it will still be necessary to legislate for them by means of Foreign Jurisdiction Act procedure.

(b) *The Public Services*

Proposals generally the same as for Indian Services

438. The proposals in the Burma White Paper on this subject are substantially the same, *mutatis mutandis*, as those in the case of India, and it is only necessary to draw attention to one or two special points. The services in Burma which will in future correspond to the Indian Civil Service and the Indian Police will necessarily have different designations but present members of the Indian Civil Service who are serving in Burma have informed us of their desire to be still described as members of that Service, and to this we see no objection. In the case of Central Service officers now serving in Burma, it is proposed that those who were recruited by the Government of India for service in Burma alone should be compulsorily transferred to the service of the Government of Burma, but that those who were recruited either by the Secretary of State or by the Government of India without special reference to service

in Burma should only be liable to transfer to the Government of Burma with their consent and the consent of the authority who appointed them. This seems a reasonable distinction to draw, and we approve it.

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Burma Frontier Service.

439. Burma has one Service which has no exact counterpart in India, viz., the Burma Frontier Service. This is now controlled and recruited by the local Government, but it comprises officers (for example, officers transferred from the Indian Army and some others) who enjoy rights guaranteed by the Secretary of State. We approve the proposal in the Burma White Paper that this service should be recruited and controlled by the Governor in his discretion, since most of the officers who belong to it would be serving in Excluded Areas under the control of the Governor.[1]

Medical and Superior Railway Services.

440. When the Burma White Paper was first published, the question of continued recruitment by the Secretary of State to the Medical and the Railway Services was still under examination. We understand, however, from the subsequent Memorandum submitted to us by the Secretary of State that the intention now is that the proposed statutory Railway Board for Burma shall, in conjunction with the Public Service Commission, control recruitment.[2] We have already recommended that recruitment for the railway service in India should be in the hands of the new Railway Board, and we see no reason why the same principle should not be applied also in the case of Burma. As regards the question of recruitment to the Medical Service, we are informed that this matter is still under consideration, and we have not sufficient information before us to make any considered recommendation; but we are disposed to think that for the time being recruitment should continue to be by the Secretary of State.

The Forest Service

441. We desire to draw attention to what we have already said on the subject of the Forest Service in India and the need for the co-ordination of research.[3] Our recommendations with regard to the Forest Service in the Indian Provinces are not of course applicable as they stand to the Forest Service in Burma; but we hope nevertheless that arrangements may be made whereby the Central Institute for Research and the Training College at Dehra Dun will be available for Burma entrants. We hope too that nothing will be done which might exclude the possibility of an interchange of officers between the Forest Services of Burma and India; and we refer in this connection to certain of the recommendations of the Burma Sub-Committee of the First Round Table Conference.

The Public Service Commission.

442. It is proposed that there should be a Public Service Commission for Burma.[4] This we regard as an essential provision, and we think that the Constitution Act should in this respect follow the Indian model.

[1] Burma White Paper, Introd. para. 22.
[2] Records [1933-34], A2, p. 11.
[3] *Supra*, paras. 234-5.
[4] Burma White Paper, Proposals 100—104.

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(c) *Commercial and other forms of discrimination*

Discrimination as between Burma and India.

443. In so far as this is a matter between the United Kingdom and Burma, the proposals in the Burma White Paper, supplemented by a subsequent Memorandum submitted to us by the Secretary of State,[1] are the same as those in the case of India, and we may refer

to what we have said upon the subject in an earlier part of our Report. The Burma White Paper and the Secretary of State's Memorandum, however, deal also with the question of discrimination as between India and Burma after the separation of the two countries, and this raises certain problems of its own

Position of Indians in Burma.

444. The Memorandum to which we have referred points out that there are in Burma over 1,000 000 persons either domiciled in India or originating from some Indian Province Some are in the permanent service of the Government, but the greater number are labourers who only intend to stay in Burma for a few years and who by accepting smaller wages tend to oust the indigenous labourer and to lower his standard of living. Others are Indian money lenders who advance money on the security of agricultural land and crops, and whose operations, especially in times of depression, are such as to bring about an extensive transfer of ownership from an indigenous agricultural population to a non indigenous and non agricultural class. It is clear that in these circumstances it would be unreasonable to include in a new Constitution for Burma provisions which would in effect give to all persons domiciled in India an unrestricted right of entry into Burma; and it is accordingly proposed that it should be competent for the Burma Legislature to enact legislation restricting or imposing conditions of entry into Burma in respect of all persons other than British subjects domiciled in the United Kingdom. We think that this is right, but we agree with the further proposal which is made by the Secretary of State that, with a view to preventing the imposition of vexatious or unreasonable restrictions or conditions for the entry of Indians of good standing into Burma, the introduction of any legislation regulating immigration into Burma should be subject to the Governor's prior consent. Nevertheless, we hope that these matters will ultimately come to be arranged between India and Burma on a conventional basis, and we refer to earlier observations which we have made on this aspect of the subject. We have also expressed the opinion elsewhere that it may be desirable that any temporary Trade Agreement made between the existing Governments of the two countries with a view to tiding over the difficult period immediately after separation, when the two new Governments will probably be too fully occupied with other matters to enter into a long and intricate negotiation, should also include provision relating to emigration and immigration.

Existing restrictions.

445 There are certain legal restrictions in force at present on the right of persons of non Burman birth or domicile to compete for certain public appointments or to qualify for the exercise of certain

[1] Br 14 [1933 34] 42 p 1

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professions, and it is right that these should be retained. As regards the future, the power of the Burma Legislature to impose conditions or restrictions on entry into Burma should prove a sufficient safeguard Subject to the above modifications, we are of opinion that the question of discrimination as between India and Burma should be dealt with on the same lines as that of discrimination between India and the United Kingdom.

Medical qualifications.

446. As regards professional qualifications, other than medical, we have nothing to add to what we have already said in the case of India. As regards medical qualifications, the position, is different. A local Burma Act at present entitles any person holding a British or Indian medical qualification to practise in Burma, but also empowers the Burma Medical Council to refuse to register any

practitioner who holds only a qualification conferred in a Dominion or foreign country which does not recognise Indian medical degrees. The recent action by the General Medical Council, to which we have referred elsewhere, in withdrawing their recognition of Indian medical diplomas, did not affect Burma specifically, since we understand that at that time there was no authority in Burma by which such diplomas were granted; but we are informed that diplomas are now granted by the University of Rangoon. The Indian Medical Act, 1933, which sets out the Indian diplomas which entitle their holders to be placed upon the Indian register does not include among them any diploma granted in Burma, but contains provisions enabling Rangoon diplomas to be included in the list, if the Indian Medical Council are satisfied after investigation that the standard of proficiency prescribed by the University of Rangoon is adequate. According to our information, however, the procedure prescribed by the Act will take some time, and it is unlikely that the Rangoon diploma will in fact be admitted to the list in the near future; and in these circumstances the position is one of some doubt and obscurity, especially as the Indian Act will obviously require some modification in its application to Burma after the separation of the two countries.

Suggestions for future.

447. We think that all persons at present practising medicine in Burma by virtue of a United Kingdom or Indian qualification ought in any event to have that right assured to them. As regards the future, we hope that it will eventually be found possible by means of reciprocal arrangements between the General Medical Council and the Indian Medical Council on the one hand and the Burma authorities on the other to arrive at a solution satisfactory to all concerned. In the meantime we think that United Kingdom or Indian qualifications which give a right to practise medicine in Burma at the date of the establishment of the new Government should continue to give that right, and that any withdrawal of it by any Burma authority should be appealable to the Privy Council, whose decision should be final and binding on both parties. We

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think also that the new Government of Burma would be well advised to consider whether it would not be to their advantage to make arrangements with the Indian Medical Council, subject to the consent of the latter, for a common medical register for both countries. An arrangement on these lines has been made, we understand, between the General Medical Council and the Irish Free State and our information is that it has in practice worked well.

(d) *The Railway Board*

Proposals for a Railway Board.

448. The Secretary of State has furnished us with a Memorandum containing proposals for the constitution of a Railway Board to manage the Burman railways after separation [1] This follows in its main outlines the proposals which we have already discussed for a Railway Authority in India; but the problem is a very different one in Burma, where the railway system consists only of some 2,000 miles of railway, and where there are no such complications as arise in India from the existence of company-owned railways or railways belonging to Indian States. Accordingly, while the Indian Railway Board is more correctly described as a Railway Authority, the Railway Board in Burma is intended to be, in the words of the Memorandum, "a Board of Directors for the one railway system owned by the State." Agreeably with this conception, it is proposed that the chief executive officer of the railways shall be ex-officio President of the Board.

Modifications suggested.

149 We agree generally with the proposals in the Memorandum, subject to the following modifications We do not think that the Financial Adviser should be a member of the Board, for the same reasons which in our view make it undesirable that he should also be one of the Governor's Counsellors, since his duty and interest might at times be in conflict We think, nevertheless, that there should be a member of the Board with special financial experience Secondly, it has been represented to us that the proposed ineligibility for membership of the Board of persons who have contractual relations with the railways would in the case of Burma unduly restrict the field from which suitable members might be selected We are informed that the Government of Burma recognize the force of this contention, and suggest the inclusion of provisions similar to those which are to be found in the Rangoon Port Act, the effect of which is to make a *personal* interest in a contract a disqualification either for membership or for participation in a discussion of matters relating to such a contract. This suggestion merits we think favourable consideration Thirdly, it seems to us that the Railway Board in Burma ought to be in a position to begin its operations contemporaneously with the establishment of the new Government, and that legislation for this purpose will therefore be necessary before the separation of the two countries It would obviously be inappropriate for the present Legislature in India to enact such legislation

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and we think therefore that it must be enacted in the Constitution Act itself, though it may well be found convenient to leave some of the detailed provisions to be prescribed by Order in Council

(e) Constituent powers, the [illegible] Audit [illegible] Advocate General

Constituent powers, etc

150 The recommendations which we have made on these four subjects in the case of India, will, we think, be equally appropriate, *mutatis mutandis*, in the case of Burma As regards Home Audit, however it may well be found that the amount of Burma business transacted in London will not be sufficient to justify the appointment of a separate officer as Home Auditor and in that event we think that some arrangement should be made whereby the Auditor for Indian Home Accounts should also act in an agency capacity for Burma

(f) The Secretary of State and his Advisers

The Secretary of State

151 We have recommended that the corporation known as the Secretary of State in Council should cease to exist after the establishment of Provincial Autonomy in India, and in that event the Secretary of State in Council would equally cease to exercise any functions in relation to Burma The question has been raised whether the Secretary of State for India should become in future the Secretary of State for India and Burma The Joint Memorandum of the Burman Delegates suggests that there should be a separate Secretary of State for Burma, or else that the Secretary of State for the Dominions should hold the office We are disposed to think that the Secretary of State for India should in future hold two separate portfolios, one as Secretary of State for India and one as Secretary of State for Burma, and we are of opinion that, though the two offices would be legally distinct, it is most desirable on practical grounds that they should be held by the same person

452 The Secretary of State, as Secretary of State for Burma, ought, we think, to have a small body of Advisers, not more than two or three at the most, to advise him on Service matters but our recommendation in the case of India that the Secretary of State should be bound in certain matters by the opinion of his Advisers or a majority of them would not be altogether appropriate in the case of so small a body, and it is for consideration whether, where Service matters are concerned, the India and Burma Advisers should not sit together and advise jointly

The Secretary of State's Advisers

(g) *Financial adjustment between India and Burma*

453 It is clear that on the separation of the two countries there will have to be an equitable apportionment of assets and liabilities, including under the latter head the liability for loans and loan charges which are at present a liability either of the Secretary of State or of the Government of India The Burma White Paper

Financial adjustment as a consequence of separation

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contains no definite proposals as to the manner in which this apportionment is to be effected but we assume that it will be necessary to appoint some impartial tribunal who will in the first place lay down the principles of the apportionment, leaving the application of those principles to be worked out in detail at a later date It will be necessary to include in the Constitution Act provisions giving the force of law in both countries to the award or awards issued from time to time by the tribunal It is also very desirable that its work should be well advanced by the time the new Government in Burma is established and we think that steps should be taken for its appointment at as early a date as is reasonably practicable

The same is read

The following Draft Report is laid before the Committee by Mr Attlee

PART I

INTRODUCTION

1 The problem of Indian Constitutional Reform the examination of which has been entrusted to us is one of a magnitude which can hardly be exaggerated It involves the destinies of over 350 millions of our fellow subjects in fact, of one fifth of the whole human race We do not consider that it is necessary to set out at great length the material facts and the conditions of the problem, because Volume I of the Report of the Indian Statutory Commission gave an exhaustive survey the general accuracy of which has been recognized We would however recall that since that Report was published, four years ago, great changes have taken place which have profoundly modified the conditions of the

The Statutory Committee's survey

problem. In particular, the Declaration of the Princes of their readiness to join an All-India Federation, and the conclusions which emerged from the labours of British and Indian statesmen at the three Round Table Conferences are factors in the situation of the utmost importance.

The Evidence before us.

2. The whole subject-matter of Constitutional reform in India has been reviewed many times since the introduction of the Montagu-Chelmsford Reforms. In addition to the very informative Reports of the Reforms Inquiry Committee, the Reports by the Government of India and the Provincial Governments on the working of the present Constitution, and the exhaustive Inquiry of the Indian Statutory Commission, there have been committees dealing with special parts of the problem, notably the Butler Committee on the relationship between the Indian States and the paramount power, the Indian Sandhurst Committee, and the Territorial and Auxiliary Forces Committee, both of which dealt with the question of the Army in India. Further there have been the three Sessions of the India Round Table Conference and the various sub-committees appointed to assist it, and of the Burma Round Table Conference. In addition to this large volume of evidence, dealing primarily with political questions, there have been the Reports of the Committee presided over by Lord Linlithgow, on Agriculture, and that on Labour, presided over by Mr. Whitley, which provide a mine of information on economic and social matters. We have ourselves been sitting for many months and have received and examined many memoranda and heard many witnesses. In addition, we have had the valuable assistance of representative Indian men and women who have participated with us in hearing and examining witnesses and discussions on the White Paper proposals. We cannot, therefore, complain that there is not enough material on which to work. Indeed, the mass of memoranda and evidence is almost beyond the power of any human being fully to digest.

The Principle of the new Constitution.

3. After having heard and considered the whole of the evidence and discussions on this Joint Select Committee, we have come to the conclusion that the principle on which the new Constitution for India should be founded is the right of the Indian peoples to full self-government and self-determination, and should have as its aim the establishing of India at the earliest possible moment as an equal partner with the other members of the British Commonwealth of Nations. We hold that the new Constitution should contain within itself provisions for its own development, and that such safeguards as are necessary should be in the interests of India and that the Reserved Powers should not be such as to prejudice the advance of India, through the new Constitution, to full responsibility for her own government. We are convinced that this policy is the only one that is consistent with the pledges that have been given to India, and that nothing short of that will ensure the continuance of India as a willing and contented partner in the British Commonwealth of Nations.

The two-fold problem.

4. In our view, the problem before us is two-fold. We have, on the one hand, to satisfy the legitimate aspirations of the peoples of India for self government and so to implement the pledges given over a period of years by the Government of this country. Secondly, we have to ensure that self-government shall be given to India in such a way as to ensure that the new Constitution shall place in the hands of the mass of rural cultivators and urban wage earners the possibility of attaining to political power and that as far as possible ample protection shall be given to racial, religious and cultural minorities. We have to recognize that for more than two centuries the whole course of the development of Indian society has been powerfully influenced by the presence of the British in India. During that time Great Britain has by its action made itself responsible for the social and economic system which it has preserved in India, and it cannot escape its responsibility. In handing over power to other hands it must ensure that the interests of the weaker sections of the community are safeguarded.

5. We consider it is necessary to emphasize again what is the goal of British policy in India. That goal is nothing less than Dominion Status. It is not possible for India to reach this goal at one single step, but we are in entire agreement with the Members of the Indian Delegation, that this goal should be clearly stated in the Constitution Act itself. We are the more insistent on this point because evidence has been put before us, with which we wish to record our entire disagreement, which purported to show that Dominion Status, with all its implications, never formed the subject of any pledge to India. Dominion Status.

6. The pledges given to India have been very many. We wish to state here those which we consider to be the most material. We would first recall the historical declaration of Mr. Edwin Montagu, Secretary of State for India, in the House of Commons, on the 20th of August, 1917, which was in these terms: "The policy of His Majesty's Government, with which the Government of India are in complete accord, is that of the increasing association of Indians in every branch of the administration and the gradual development of self-governing institutions with a view to the progressive realization of responsible government in India as an integral part of the British Empire."[1] That declaration was embodied in the Preamble to the Government of India Act of 1919, which states as follows: "Whereas it is the declared policy of Parliament to provide for the increasing association of Indians in every branch of Indian Administration, and for the gradual development of self-governing institutions, with a view to the progressive realization of responsible Government in British India as an integral part of the Empire. The Declaration of 1917.

And whereas progress in giving effect to this policy can only be achieved by successive stages, and it is expedient that substantial steps in this direction should now be taken:

And whereas the time and manner of each advance can be determined only by Parliament, upon whom responsibility lies for the welfare and advancement of the Indian peoples:

And whereas the action of Parliament in such matters must be guided by the co-operation received from those on whom new opportunities of service will be conferred, and by the extent to which it is found that confidence can be reposed in their sense of responsibility:

And whereas concurrently with the gradual development of self-governing institutions in the Provinces of India it is expedient to give to those Provinces in provincial matters the largest measure of independence of the Government of India, which is compatible with the due discharge by the latter of its own responsibilities."

7. This was given even greater publicity and emphasis by the statement of H. M. The King Emperor, read by H. R. H. The Duke of Connaught, on the 9th February, 1921, to the new Indian Legislature, which contained these words:—"For years, it may be for generations, patriotic and loyal Indians have dreamed of Swaraj for their Motherland. To-day you have the beginnings of Swaraj within my Empire, and the widest scope and ample opportunity for progress to the liberty which my other Dominions enjoy." The same point is made in the revised Instrument of Instructions from His Majesty The King Emperor to the Governor-General of India, dated the 15th March, 1921, which states:—"For above all things it is our will and pleasure that the plans laid by our Parliament . . . may come to fruition to the end that British India may attain its true place among our Dominions." Later Pledges.

On the 31st October, 1929, the object of British rule was explicitly reaffirmed by Lord Irwin, when, speaking with the full authority of the British Cabinet, he said that it was "implicit in the declaration of 1917 that the natural issue of Indian Constitutional progress, as there contemplated, is the attainment of Dominion Status."

Lastly there are the concluding words of the Prime Minister at the Final Session of the first Round Table Conference in January, 1931:—"Finally, I hope, and I trust, and I pray that by our labours together

[1] Official Reports, Commons, Vol. 97, col. 1695.

India will come to possess the only thing she now lacks to give her the status of a Dominion amongst the British Commonwealth of Nations—what she now lacks for that—the responsibilities and the cares, the burdens and the difficulties, but the pride and the honour of responsible self government." The Prime Minister, as head of the National Government, confirmed the statement of policy then made in the words "My colleagues fully accept that statement of January last as representing their own policy."[1]

Mr. Churchill's statement.

8. An attempt has been made by witnesses before us, notably by Mr. Winston Churchill, to argue that Dominion Status meant something different from that which it was understood by Indians at the time to mean, and that it did not involve the grant to India of a status equal to Australia and Canada. He argued also, that Dominion Status is only a distant, remote goal which it is not practicable to take into consideration in any period of which human beings need take account.[2] We find it difficult to reconcile that meaning with the eloquent words of Mr. Churchill in June, 1921, when he was Secretary of State for the Dominions and Colonies. In a public speech to the Prime Ministers of the British Dominions and Representatives of India, he said, "there was another great part of the Empire represented at that gathering which had not yet become a Dominion, but which moved forward under the Montagu scheme in the work which began with Lord Morley and was continued by Lord Chelmsford, towards a great Dominion Status," and, further, "We owed India that deep debt, and we looked forward confidently to the days when the Indian Government and people would have assumed fully and completely their Dominion Status."

Need for certainty.

9. We ourselves have no doubt that in India these various statements and pledges were understood in their natural meaning, that is to say, that India could look forward to attaining within a reasonable period of time the same status as that of the other Dominions of the British Commonwealth. We feel that nothing could be more unfortunate for the creation of a fruitful partnership between the peoples of this country and India than that words understood in one sense should be subsequently explained away and given a different meaning. We agree with the contention of the Indian Delegates to this Committee when they say in their Memorandum that:

"Indian public opinion has been profoundly disturbed by the attempts made during the last two or three years to qualify the repeated pledges given by responsible Ministers on behalf of His Majesty's Government. Since it is apparently contended that only a definite statement in an Act of Parliament would be binding on future Parliaments, and that even the solemn declaration made by His Majesty The King-Emperor on a formal occasion is not authoritative, we feel that a declaration in the preamble is essential in order to remove present grave misgivings and avoid future misunderstandings."[3]

Development of the Constitution.

10 We therefore consider that this country is bound to implement this pledge of honour and to that end we desire that the new Constitution should state beyond all cavil that it is the intention of this country to grant full Dominion Status to India within a measurable period of years, and that the Constitution itself should contain possibilities of expansion and development which may without further Act of Parliament, realize this objective. We would express our entire agreement with the view of the Indian Statutory Commission that "The first principle which we would lay down is that the new Constitution should, as far as possible, contain within itself provision for its own development."[4] And we would quote further from their Report: "It has been a characteristic of the evolution of responsible government in other parts of the British Empire that the

[1] Cmd. 3997 of 1932, p. 415.
[2] Minutes of Evidence, No. 41, p. 1851.
[3] Joint Committee Records, No. 10, p. 37.
[4] Indian Statutory Commission Report, Vol. 2, p. 5.

details of the constitution have not been exhaustively defined in statutory language. On the contrary, the Constitutions of the self-governing parts of the British Empire have developed as the result of natural growth, and progress has depended not so much on changes made at intervals in the language of an Act of Parliament, as on the development of conventions, and on the terms of instructions issued from time to time to the Crown's representative. The Preamble to the Government of India Act declares that progress in giving effect to the policy of the progressive realization of responsible government in British India can only be achieved by successive stages, but there is no reason why the length of these successive stages should be defined in advance, or why every stage should be marked by a commission of inquiry. We are profoundly convinced that this method of inquiry at stated intervals has had a most injurious effect on the working of the reformed Constitution, and on Indian political life."[1] They further state: "We believe that what is required is a constitution which, without doing this, will contain some element of elasticity enabling adjustments to be made in accordance with the conditions actually obtaining in any given province at any particular time."[2] We are concerned to give the fullest measure of self-government to India, because the people of this country, having for so many years enjoyed responsible self-government themselves, should not deny it to other parts of the Empire. We consider that the only limiting factors which prevent the grant of full responsible self-government and Dominion Status to India at the present time are those which arise not from any opposition in this country but from the facts of the situation.

11. We fully recognize the great work that Great Britain has done in India, especially in giving her a sense of political unity which was wanting for so many years, and we are conscious of the many material advantages bestowed by Great Britain and the devotion with which the members of the Public Services have carried out their tasks as servants of Inda; but we recognize that one of the most striking effects of British rule has been the emergence of a national consciousness in India and the natural desire that Indians should manage their own affairs. We desire to give the fullest possible expression to this national consciousness and to make provision by means of a reformed Constitution for the living forces of Indian Nationalism to be harnessed to the great tasks which confront any government in India. We agree with the statement in the Report of the Indian Statutory Commission, that "until the demands of Nationalism have been reasonably met, enthusiasts for various reforms make common cause with every discontented element and attribute all the evils that they attack to the absence of self-government. In our view the most formidable of the evils from which India is suffering have their roots in social and economic customs of long standing which can only be remedied by the action of the Indian peoples themselves." Nationalism.

12. While, however, we desire to give full weight to the claims of Indian Nationalism, we are not unmindful that unless political changes result in giving a better life to the ordinary citizen, they are of little value. We are not blind to the fact that in India, as in most parts of the world, the masses of the people are the prey of economic exploitation. A change in the Constitution which would put the Indian rural population and the urban wage-earners at the mercy of a politically dominant section in possession of economic power might very well intensify the very evils which we desire to see eradicated. While recognizing the public spirit and zeal for reform of many leading Indian statesmen, we cannot but recognize the fact that the majority of the active and politically-minded Indians belong to the privileged and well-to-do classes, that the Hindu social system is based on inequality, and that, in India as elsewhere, the power of wealth in politics is inevitably very strong. We have seen many examples in Europe of nationalist movements, the supporters of which, when striving for political freedom, have professed the keenest Social and Economic problems.

[1] Indian Statutory Committee Report, Vol. 2, p. 5.
[2] *Ibid*, p. 8.

desire for advanced social legislation, and have proclaimed a profound faith in democracy; but on many occasions when freedom from alien rule has been obtained, the nationalist governments which followed have exhibited outstanding examples of tyranny, reaction, and social injustice, and it would, in our view, be unwise and unduly optimistic to ignore the possibility of similar happenings in India. We feel, therefore, that the British people cannot discharge their responsibilty to the peoples of India unless in any Constitution provision is made for the ultimate attainment of political power by the masses. The vast majority of the Indian population consists of poor, illiterate and as yet inarticulate peasants, who in very many cases are exploited by a particularly vicious system of landlordism and who fall a ready prey to the moneylender. In the big towns and in the planting districts of India there is a large industrialized, or semi industrialized, population which is liable to be exploited by a capitalist system which is apt to be less enlightened in India than even in the rest of the world. We recognize that in face of the rise of nationalism it is impossible for this country to constitute itself the effective guardian of the weaker sections of the community. We desire, however, to see that, as far as possible, the Constitution should provide safeguards against exploitation of the masses.

White Paper Proposals.

13. It is clear in our view that the White Paper Proposals fall far short of what is necessary. Indeed, if legislation is passed implementing the White Paper the Indian people will be saddled with a Constitution which establishes wealth and privilege in power not only at the Centre, but in the Provinces. While franchise as wide as is administratively possible at the present time is proposed for the Provincial Lower House, the establishment in Bengal, the United Provinces, and Bihar, Provinces where the landlord system is at its worst, of Second Chambers, designed to give weight to property owners, and the special representation given in all the Lower Chambers to the owners of land and industrial capital, will ensure, in our view, the domination of the wealthier classes, so that political and economic power will be in the same hands. In the Federal Legislature both Chambers are so composed as to be representative almost entirely of vested interests and wealth. Apart from the few seats reserved to Labour and the Depressed Classes, it is practically certain that no place will be found for anyone who can speak on behalf of the 80 or 90 per cent. of the population who own hardly any property.

Safeguards.

14. We recognize the difficulty of providing safeguards for the prevention of the exploitation of the poorer sections of the community, without, at the same time, detracting from the measure of self government given to India. We do not think, indeed, that it is possible, except in a limited degree, to place the exercise of such safeguards in the hands of the Governor or Governor General. We believe that what is required is that there should be secured in the Constitution the potentiality of political power for the masses. We are well aware that in the conditions obtaining in India, whatever may be the franchise, for a long period the wealthier classes will be politically dominant: but we consider that, provided the franchise is widely extended, in course of time members of the wealthier classes may find it worth while to court the support of their poorer fellow citizens and may thus eventually lead them to a realization of the possibilities of a use of political power to obtain their economic enfranchisement. It is, therefore, mainly with a view to protecting the poorer sections of the community from exploitation, that we recognize the need for safeguards, and we desire that the Constitution should contain provisions which will ensure the ultimate introduction of adult suffrage and which will preclude the possibility of an oligarchy disfranchising the majority of the citizens. For similar reasons, we are opposed to the creation of Second Chambers, and to special representation being given to vested interests such as landlords, and we desire that where representation is given to Industry and Commerce it should be only what is necessary to give adequate representation to particular experience which may otherwise be lacking.

On the other hand we consider that it is necessary that special representation should be given to those classes of the community whose poverty renders them most liable to exploitation. For this reason we approve of the reservation of seats for the Depressed Classes which may have to be continued for many years.

We recognise that special provision is necessary at present to secure in the legislatures the presence of Labour representatives. We hope, however, that this may be only temporary and that with the advent of adult suffrage organized labour may find its expression in the general constituencies.

15. It is necessary, in our view, that adequate safeguards should be provided in the Constitution for protecting the rights of racial, communal, or cultural minorities. The state of Europe to-day provides an abundance of instances of oppression of minorities by majorities. It is unnecessary for us to emphasize the very grave divisions in India caused not merely by the rivalry of the great Hindu and Muslim Communities, but by the existence of many minor communities, and by the division of the Hindu world into numerous castes, and by the existence of the very numerous Depressed Classes. Safeguards for the protection of these minorities are recognized as necessary by most of the prominent leaders of Indian thought. It is, therefore, clear to us that the Constitution, while giving self-government to India, must make provision to see that it is not abused in the interests of particular sections. We have given much consideration to the problem of separate and joint electorates, and, in common with all those who have examined it, we have come to the conclusion that, much as we dislike a system of communal electorates, it is impossible, in view of the grave divisions of opinion in India, to avoid it for the time being. The division of the electorate into watertight compartments and the allocation of seats according to the numbers of various religious communities seems to us to cut very deeply at the roots of a real system of democratic government; but we can only hope that in course of time a realization of their common citizenship may lead the contending communities to sink their mutual suspicions and animosities. Meanwhile, it is necessary to base our proposals for representation at the Centre and in the Provinces on the Communal Award. **Safeguards for Minorities.**

16. In endeavouring to frame a Constitution we recognize that we are not writing on a clean slate. The working of the Montagu-Chelmsford Reforms has powerfully affected Indian public opinion, and it is impossible to ignore the preferences for particular constitutional forms which have now the sanction of usage over a considerable period of years. Any constitution must satisfy Indian public opinion. This is not to say that in every detail Indian views of what is desirable must be accepted, for we have to consider not merely the politically conscious but also those who as yet have little more than a dim conception of democratic government and electoral systems. Nor would it be right for us to subordinate entirely our greater and longer experience of the working of parliamentary institutions to the views of Indian politicians; but it is necessary always to bear in mind that a faulty constitution which will be worked with goodwill by those whom it most closely concerns is better than a more perfect piece of machinery which no one will operate. **Nature of the Constitution.**

17. We accept the conclusions of the Round Table Conference as embodied in the White Paper, that the new Constitution for India must be Federal. We recognize, however, the serious difficulties involved in the attempt to federate units of very different internal constitution, but it is essential, if India is to be a nation, that British India and the Indian States should be associated. The fact that the Central Legislature will be composed of elected representatives from self-governing Provinces, and the nominees of the Rulers of States, in many of which there is not even a shadow of democratic institutions, has necessarily very powerful repercussions when consideration is given to what constitutional arrangements are best at the Centre. We doubt whether this fact has been sufficiently present to the minds of Indian politicians. It would, of course, solve many difficulties if from the start **Federation.**

the representatives of the Indian States in the Central Legislature were elected, but we recognize that it is impossible for the British Parliament to dictate to the Rulers of the Indian States what form of Constitution they should adopt, and that to attempt to lay down any condition to this end would be to wreck all chances of Federation. But we would like to record our opinion that it would make for constitutional stability and for the growth of a real Indian national consciousness if at least in those States where representative institutions exist those sent to a Central Legislature should be chosen directly or indirectly by the people.

Responsibility

18. The demand of Indian politicians for responsible government has been stressed over and over again and was reiterated by the Indian Representatives who were our colleagues on the Committee. We are emphatically of the opinion that where responsibility is given it must be real. It involves such an amount of freedom from external control as will allow of profitable experience being derived even from mistakes. A form of responsibility where there is power in some other authority to step in and save people from the consequences of their own errors, except in extreme emergencies, is unreal. We have been impressed, as indeed, were the Members of the Indian Statutory Commission, with the fact that under the Montagu Chelmsford Reforms there was a tendency to breed irresponsibility. The fact that in the Legislatures it was possible for elected representatives to vote against unpopular but necessary measures, secure in the knowledge that a Governor or Governor General would be at hand to set things right was, in our opinion, a very unfortunate feature of the last ten years. Equally unfortunate, in our view, was the constitution of the Central Government, whereby an irresponsible Executive was faced by a Legislature with little power of control. Responsible government in the minds of many Indians is considered necessarily to mean the British Parliamentary system. It is almost inevitable that the long course of education of Indians in English ideas and on English historical and constitutional text books should have made this conception almost ineradicable. We are conscious that our Indian colleagues have been apt to regard any variation from what we may call the Westminster model of constitutional government as derogatory to their status as fellow-citizens in the British Commonwealth of Nations, and as conceding something less than they consider is their due. As a matter of fact, our own system of responsible government has no exact reproduction outside the British Commonwealth, while there are examples of responsible government on entirely different models, as for instance, in the United States of America. We recognise, however, the strength of this conviction on the part of Indian politicians, and we consider that India should be given the fullest opportunity of trying out the British system in the Provincial sphere with as little interference as possible. We think it unlikely that there will be uniform constitutional development in all these Provinces, and, indeed, we think it desirable that the Constitution should be sufficiently flexible to allow of variation and adaptation to the very varied conditions obtaining.

Responsibility at the Centre.

19 We think it essential that real responsibility should be conceded at the Centre. There is no doubt that Indian sentiment strongly demands it, and would consider a Constitution which provided for only some slight or illusory responsibility at the Centre as a denial of India's proper status. There is, too, a further strong argument against giving responsible government in the Provinces and withholding it at the Centre. India has been united for but a short period of time relative to her long history. While the sentiment of Nationalism is strong, there are also powerful tendencies towards Provincialism. There is grave danger that if responsibility were conceded in the Provinces and not at the Centre there might be a growth of separatist feeling. The parts would be developed at the expense of the whole, and the hard-won unity of India, which she owes very largely to the British people, would be shattered. We consider it is essential the Centre should be, as it were, a focal point for Indian

Nationalism. At the present time the Congress appears to very many Indians as the most vital expression of their nationalist aspirations, and it has been a regrettable fact during the years which have elapsed since the Montagu-Chelmsford Reforms that Congress has been to a large extent a body functioning outside the Constitution. It is our desire that Indian Nationalism should find its full expression within the Constitution, and we think this is only possible if real responsibility is given at the Centre as well as in the Provinces.

20. On the other hand, we do not consider it likely that the constitutional arrangements for a unitary state with a population of forty or fifty millions is likely to be suitable for a country of 350 millions and, in fact, there is no country in the world with a population anywhere approaching that of India in which the British system has been put into force. We have to recognize that the form of government applicable to a unitary state is not necessarily that which is best adapted for a federation, while, as we have pointed out above, the fact that the Federation is composed of two categories of Federal units of different constitution, makes it difficult to believe that a system modelled precisely on that in force at Westminster would function effectively. **The Constitution at the Centre.**

21. We consider that there should be no reserved subjects in the Provinces. We do not think that it is necessary for us to emphasize or enlarge on the disadvantages of Dyarchy which were very fully discussed in the Report of the Indian Statutory Commission. No evidence submitted to us has, in our view, shown their considered opinion to be incorrect. The White Paper suggests three subjects for reservation at the Centre. We see no reason why India should not have as full a control over her external affairs as any other Dominion. She is a member in her own right of the League of Nations. We agree, however, that the department of foreign affairs dealing with the relationship of the Viceroy and the Indian States should be reserved. We consider that the Ecclesiastical Department should be abolished and such functions as the provision of chaplains should be transferred to the Department of Defence. On the other hand we recognize that for some years defence must be reserved. The Indian Statutory Commission stated that the great obstacle to giving full self-government to India was the fact that the Military Forces were composed partly of Indian troops with officers of British nationality, and partly of units drawn from Great Britain. It is abundantly clear to us that it is impossible to transfer the control of Forces so composed to an Indian Minister. This is not due to the fact that the Minister would be an Indian, as is sometimes erroneously supposed, but to the well-established practice, which has never been departed from in the history of the British Empire, that Imperial troops must not be put at the disposal of Ministers not responsible to the British Parliament. We desire, however, that the conversion of the Indian Army from a mixed force to an All-Indian Force should be pushed forward with the greatest possible energy, and we make proposals whereby an informed public opinion in the Legislature on Defence questions should be created. We consider that a definite time should be laid down in the Constitution, at the end of which the control of Defence should pass into the hands of responsible Ministers. **Reserved Subjects.**

22. In our view, while it is necessary that there should be reserved powers in the hands of the Governor-General and the Provincial Governors, we would desire to see these much reduced in scope on those laid down in the White Paper. We consider that the success of the experiment of Indian Self-Government will be shown by the little use which is made of these powers. It is necessary that the power of intervention should not be used so frequently as to lessen the sense of responsibility of the elected Members of the Legislatures and of the responsible Ministers. They should be essentially for use in emergency, and we believe that in future Governors and Governors-General will tend to rely more on their powers of persuasion and advice than on the putting into force of an actual exercise of their will. **Reserved Powers.**

Administration.

23. It has been said that Indian government is far more a matter of administration than politics. This may have been true in the past and even have many elements of truth to-day. There is no disguising the fact of the immense importance to India of a stable administration. There are in India millions of the population who are living in artificial conditions created and maintained by an efficient administrative machine. For example, the large agricultural populations in the canal colonies in the Punjab are dependent on a well-administered system of irrigation. It is true to say that the lives of millions depend on this machinery of government, and were it allowed to fall into disrepair the consequences would be far-reaching and disastrous. On the other hand, in our view, it is not possible for an administration, however able, disinterested and incorruptible, to function successfully against the force of public opinion. It is here, we consider, lies the fallacy of those who suggest that it is possible to return to the old condition of affairs in India, when the Members of the Civil Service were in fact the Government. Those days have passed, and we believe that the present generation of Civil Servants recognizes quite clearly the difference of function which they now have to perform, and that, instead of giving orders, they now have to persuade and advise. So long as the majority of the educated classes in India were not politically awake, and so long as those classes had not discovered the means of influencing the masses, it was possible to maintain that the best form of government for India was a disinterested bureaucracy. But as soon as the educated classes became politically awake and as soon as they began to manifest their power, as they have done in recent years, of swaying the masses, the administration had to work under conditions of opposition and criticism which must in time render all its efforts nugatory. We recognize, however, that there is still in India the need for British help in the services, and in this most of the spokesmen of India agreed, and we desire to see that those who serve India during the difficult transitional period through which she is passing should have that security and freedom from anxiety as to their status and prospects which will permit them to give the best services of which they are capable, and we are, therefore, in favour of all reasonable provision being made to this end. We deem it essential that strong and independent Civil Service Commissions should be set up at the Centre and in the Provinces, and welcome the White Paper proposals to this end.

The Date of Federation

24. We agree with the Indian Delegates in attaching great importance to the fixing in the Constitution Act of a definite date for the inauguration of the Federation As they said in their Memorandum, "we have in view the psychological effect of such a provision on the political parties in India. The uncertainty that must necessarily result from the absence of any definite date in the Constitution Act for the inauguration of the Federation and the possibility of further delay arising from the procedure of an address in both Houses for the issue of a Proclamation would seriously prejudice the formation or realignment of political parties in India. On the other hand, we have reason to suppose that if a definite date were fixed, even the parties which are dissatisfied with the White Paper Constitution would probably cease to carry on an agitation on the present lines and would be encouraged to concentrate their attention on the new elections. We attach very great importance to this development, since the satisfactory working of the new scheme must necessarily depend on the existence of well organized parties, prepared to work the scheme."[1] We are entirely in agreement with this view, and for this reason we are unable to concur with the procedure outlined in the White Paper, whereby the inauguration of Federation will be dependent on an address in both Houses of Parliament. Nor can we accept the proposition that the coming into force of the new Constitution should be dependent on the Indian budgetary and financial position being entirely satisfactory. We can see no reasons why canons of finance, which are patiently disregarded by all the leading countries of the

[1] Joint Committee Records, No. 10, p. 37.

world, including our own, should be imposed upon India. India, indeed, has an enviable record in balancing its budget and meeting its financial obligations. It appears to us that, inasmuch as in any event the Government of India must be carried on whether there is financial stringency or not, it is illogical to make self-government depend on financial prosperity. It is particularly undesirable that this should be done in the case of Great Britain and India. Such a proposal seems to us to regard Great Britain and India as creditor and debtor rather than as fellow-members of a commonwealth of nations. Equally, we are unable to accept the view that the bringing into operation of the Federation should be dependent upon the adhesion of the Rulers of States representing not less than half the aggregate population of the States, entitled to not less than half the seats in the Federal Upper Chamber. To agree to such a proposal is to subject the progress of Indian democracy to the veto of a number of autocrats. We consider that the Federation should be established, in the first place, with whatever States are prepared to enter it, and that other States, whenever their Rulers are prepared to accede, should be added. We should, of course, prefer to see the Federation fully representative of All-India from the start, but the entry of the States should not be made a condition of the establishment of responsible government at the Centre

25 We have been impressed by the great importance which all the Indian Representatives whom we have met lay on the subject of Status. We do not think that this is sufficiently recognized in the White Paper Proposals. We consider it would be well to mark the new departure by a change in the channel through which connection between Great Britain and India is maintained. We should desire that India, on attaining Dominion Status, should come under the Secretary of State for the Dominions, but during the transitional period we think that the India Office should be transformed into a Secretaryship of State for the Self-Governing parts of the British Commonwealth of Nations in the East The Secretary of State should in our view be responsible not only for India, but also for Ceylon, Burma, and any other portions of the British Commonwealth of Nations which are following the path towards complete self government. In any event, it is clear to us that the India Office cannot continue to exist on anything like the same lines that have obtained since the Crown took over the administration from the East India Company. At the same time, it is desirable that the experience of the India Office should be fully utilized, and we shall make certain suggestions for reform. India and Great Britain.

26 In conclusion we would urge that in inaugurating another stage in the long history of the connection between this country and India we should, above all things, endeavour to exercise the utmost generosity. We are convinced that the only real safeguard for British interests in India is the goodwill of the Indian people The insistence on a number of small provisions, each one of no very great value in itself, tends to spoil the effect of the great advance which has been made We are profoundly convinced from our intercourse with our fellow-citizens from India that generosity and fair dealing will create generosity and fair dealing, and that the spirit in which a gift is made is as important as the gift itself. We recognize that in India we are embarking on a great experiment The establishment of a form of government based on the ideals of Western democracy in an oriental country is almost unprecedented. To attempt to give a population of 350 millions a system of government whereby they will have control over their own affairs is almost unparalleled in political experience; but we are persuaded that the choice before us is either to go forward or to fail It should be a matter of pride to us that we have carried across the seas the principles of democratic self-government which we have so long practised, and that those seeds have borne fruit. The proposal to endow India with self-government is not, as some suggest, a falling away from the great traditions of the past, but is, on the contrary, the fulfilment of the work of all those great servants of India who have gone out from this country and who have laboured to make India a Nation Conclusion.

We have tried to meet, with a full sense of sympathy and responsibility, what we conceive to be the legitimate aspirations of the peoples of India. We believe that in the future as in the past men and women of our own race will be of service in helping India forward on the path of progress and that the bonds of friendship between the two peoples will in no way be weakened but rather strengthened by India becoming an equal partner in the British Commonwealth of Nations.

It is our earnest hope that the peoples of India will seize their great opportunity of leading the East along the path of democratic progress and that all sections will unite in a common aim to make the new constitution productive of ordered freedom and social justice for all.'

PART II

PROVINCIAL AUTONOMY

27. We are in general agreement with the proposals of the White Paper for establishing Provincial Autonomy. It is our desire that in each Province a Government responsible to a Legislature should be set up which should have control over the entire Provincial field We agree generally with the delimitation proposed in the White Paper between the functions of the Provincial and the Federal Governments. The lists of subjects in Appendix VI seem to us to be sufficiently exhaustive and, with certain reservations in regard to Social and Labour Legislation, to give a satisfactory allocation.

The Provinces

28 We are in agreement with the proposals in the White Paper to constitute two new Provinces -Sind and Orissa. We have carefully considered the objections that have been raised to the separation from Bombay of Sind, which have been mainly based on the possibility of there being a deficit in the Provincial Budget, and to the fact that the prosperity of the Province must depend to a large extent on the proper administration of the Sind Barrage We consider, however, that there is a very strong case that a territory, racially and geographically separated from the rest of the Presidency, should be given a separate administration. The Governor should be given a special responsibility in relation to the Sukkur Barrage We are also strongly in favour of the Constitution for the new Province of Orissa, which will we believe, do an act of justice to the claims of the Oriya speaking people We think that the boundaries of the Province should be increased by the addition of the Jaipur Zemindari We have great sympathy with the desire of the Raja of Parlakimedi for the inclusion of his state in the new Province, but in view of the racial and linguistic composition of the population therein contained, we are unable to recommend that his desires should be acceded to. We believe that even with the creation of these new Provinces there is a strong case for a reconsideration of Provincial boundaries and we recommend that the Indian Legislature should as soon as possible after the coming into force of the new Constitution set up a Boundaries Commission to delimit the extent of the Provinces and to decide if some should, for greater facility in working be divided. Generally speaking, we consider that the Provinces, however suitable as administrative units under an autocracy, are, in many cases, too large for the efficient working of democratic institutions for a people at the stage of development of that of many of the inhabitants of India, although, at the same time, we recognise that a Provincial patriotism, has, in many instances, already been developed. It is therefore, in our view, essentially a matter which should be decided by the representatives of the Indian people. We would add here a word as to the proposition which has been put before us on many occasions, namely, that no area which is not financially self-sufficient should be formed into a Province. We cannot accept this contention. It is a fact that the Indian Provinces

and various parts of them differ widely in their financial resources, but we can see no reason why, two areas that admittedly differ in their racial and linguistic composition, should be united in order that one of them might bear the burden of the deficit in the other. In our view, the mere fact of contiguity to a deficit area does not make it equitable to impose a burden on the people of a particular Province. We recognize that it is desirable that no part of India should be seriously retarded in its progress as compared with others by reason of its lack of resources, but we consider that the difficulty should be got over by the grant of funds from the whole of India, rather than that the burden of the deficit areas should be placed on particular Provinces for purely geographical reasons.

The Provincial Executive

29. We are in general agreement with the White Paper in the proposals to abolish dyarchy and to transfer all subjects to Ministers. We have considered with very great care the arguments which have been put forward in some quarters against the transfer of Law and Order or particular parts of that subject, notably the Police; but we think that the reasons given by the Indian Statutory Commission for the transfer are sound. It would be disastrous for British influence in India if, while all the more popular functions of government were transferred to Indian hands, the preservation of order should be retained by the Governor acting through an irresponsible Representative, whether British or Indian. The success of a Police Force depends very largely on the extent to which it is recognized by the people as being maintained in their interests. It would be fatal to the efficiency of the force in the future if it were to be regarded as an instrument of an alien power. It has been suggested to us that there should be some reservation in respect of the Special Branch of the Police, especially in Bengal. The conditions in that Province, due to the activities of the terrorist movement, are altogether exceptional, and we recognize the serious nature of the problem. We think, however, that the evil must be dealt with by Indian statesmen, backed by the full force of public opinion which they should be able to rally to the support of their own government. It is not in our view possible to divide up the control of the Police Force for the Special Branch must depend largely on the co-operation of the members of the force engaged in their ordinary functions of preserving law and order. A doubt has been expressed whether information will be forthcoming as to terrorist activities if the Special Branch is under an Indian Minister, not because the witnesses who came before us had not confidence in the probity of Indian Ministers, but because the informants might suspect that their names might be disclosed. We are, however, satisfied that Indian Ministers will follow the usual practice which obtains in this country and will not seek for information from the Chief of Police as to the names of those on whose information action is taken. We have already stated that we desire to give in the Provincial field the fullest opportunity for the experiment of parliamentary government on the British model. We consider, therefore, that all Ministers should be elected members of the Legislature, and there should be no power in the Governor to appoint as Minister a non-elected person. It has been argued that it might be advisable at some time and in some Provinces for the Governor to have the power of entrusting a particular portfolio to someone who did not owe his position to popular election, and the suggestion has been made that the provision of Second Chambers in some of the Provinces will enable this to be done on lines not unlike those which obtain in this country where some Ministers are Members of the House of Lords. We do not consider that this provision should be included in the Constitution. It is undesirable, we think, that there should be any blurring of responsibility, which must lie definitely either with Ministers responsible to the Legislature or with the Governor if a complete breakdown occurs.

Selection of Ministers

30. We consider that the Governor in selecting Ministers should follow the practice that obtains in this country, that is to say, that he should send for the individual who, in his opinion, commands the greatest amount of support in the Legislature, and should invite him to form a ministry. We consider that the practice already obtaining in Madras of having a First Minister who is, in fact, the Prime Minister should be followed in all provinces. The White Paper suggests that the Governor should be instructed to choose his Ministry in such a way as to represent the various communities. We do not think that his discretion should be in any way hampered. If real parliamentary government is to be established, it is essential that there should be collective responsibility. At the present time in some Provinces in India the Ministry is composed of Members who draw their support from separate sections and who cannot rely on a majority in the Legislature to support the Ministry as a whole. While in some Provinces such a practice may still be necessary, we consider that experience has shown that a system of groups forms a very weak basis for a government, and we should desire that the Governor, wherever possible, should endeavour to form a homogeneous Ministry.

The Governor's special responsibilities

31. It is proposed in the White Paper that the Governor shall have a special responsibility in respect of: (a) the prevention of any grave menace to the peace or tranquillity of the Province or any part thereof; (b) the safeguarding of the legitimate interests of minorities; (c) the securing to the members of the Public Services of any rights provided for them by the constitution and the safeguarding of their legitimate interests; (d) the prevention of commercial discrimination; (e) the protection of the rights of any Indian State; (f) the administration of areas declared, in accordance with provisions in that behalf, to be partially excluded areas; and (g) securing the execution of orders lawfully issued by the Governor General. The Governors of the North West Frontier Province and of Sind are respectively declared to have in addition a special responsibility in respect of: (h) any matter affecting the Governor's responsibilities as Agent to the Governor General in the Tribal and other Transborder Areas; and (i) the administration of the Sukkur Barrage. With regard to (a) the Joint Memorandum of the British India Delegation urges a double limitation on the scope of this special responsibility: first, that the special responsibility itself shall be restricted to cases in which the menace arises from subversive movements or the activities of a person or persons tending to crimes of violence; and, secondly, any action taken by the Governor under it shall be confined to the department of Law and Order.[1] We accept the first suggestion. We feel that the special responsibilities of the Governor should be reduced to the absolute minimum necessary, and that the provision in the White Paper is drawn in such wide terms as to enable the Governor to step in and overrule Ministers over a very wide field. To give such wide powers of intervention is, in our view, likely to reduce that sense of responsibility which we wish to see created in Ministers and Legislatures. We believe that the success of the Provincial Governments will be shown just in so far as such a power does not have to be exercised, and we consider that powers given to the Governor must be adequate, but in our view they should essentially be emergency powers to be used only where a breakdown threatens and not to be part of the ordinary operation of government. We do not agree, however, that any action taken by the Governor should be confined to the department of Law and Order. This is to fall into the mistake, which may perhaps have arisen owing to the operation of dyarchy, in imagining that Government can be divided up into a series of watertight compartments. With regard to (b), we agree with the British India Delegation in thinking that the term "legitimate interests of minorities" is capable of a dangerously wide interpretation. It may be said that

[1] Joint Committee Records No. 10, p. 51.

the term "minorities" has a special meaning in India and connotes the Minority Communities such as the Muslims, the Sikhs, or Indian Christians and that the Governor will well understand the scope of the phrase. We fear, however, that it may be possible for some Governor in the future so to interpret the "legitimate interests of minorities" as to make him feel it incumbent upon him to prevent legislation directed to the removal of economic, social and religious abuses; and we should therefore propose that, instead, the words "racial and religious" should be inserted before the word "minorities." We also agree that the words in (c) are capable of a wide interpretation, and would prefer that "special responsibility" should relate only to the securing to the Members of the Public Services of the rights definitely provided for them by the Constitution.

Procedure

32 It is contemplated that the Governor should normally preside at meetings of his Ministers. We realize that for some time this practice may be desirable but we would wish that it may soon fall into desuetude. In the early stages of the new Constitution, Ministers will value the advice of the Governor, but this can be obtained without his direct participation in what amount to meetings of a Cabinet. It is, we think, in the direction of gradually transforming the position of the Provincial Governors into that held by the Governor of a self-governing Dominion that progress towards full self government will be made in the Provinces. This progress may well be more rapid in some provinces than in others, but, in our view, it is desirable from the start that Ministers should take upon themselves the full responsibility. We recognize that it is necessary that the Governor should be kept fully informed of all that is taking place, if he is to be in a position to carry out his special responsibilities We believe that this can be fully provided for by his right to lay down rules of business. We consider it necessary that the Governor should be provided with an adequate staff and that the salaries of the Governor and of his staff should be not votable In particular, it is necessary that he should have a capable and experienced officer of high standing at the head of his staff who would be fully conversant with the current affairs of the Province and in close contact with the administration It is, in our view, obviously necessary, in the case of Provinces to which Governors are sent out from this country, that there should be available a fully-informed officer of high rank if a Governor is to carry out his onerous and responsible duties.

Special Powers

33. We agree with the White Paper, that it is necessary that there should be special powers in the Governor to legislate in case of emergency, but only in emergency. We disagree with the White Paper in the suggestion that where a Governor proposes to pass emergency legislation he should seek the consent of the Legislature. It should be a condition precedent to the introduction of such legislation that it is impossible to get the necessary consent of the Legislature and for the Governor to endeavour to obtain that consent which *ex-hypothesi* will not be forthcoming seems to us to be quite illogical. We consider that all acts of Governors and all temporary ordinances should be laid before Parliament and that the Governor, before legislating or passing ordinances, should have the consent of the Governor-General. We are in agreement with the recommendation of the White Paper, that in the event of a breakdown of the Constitution the Governor should have power, by Proclamation, to assume to himself such powers vested in any Provincial authority as appear to him to be necessary for the purpose of securing that the Government of the Province should be carried on effectively. Events have shown that this may be necessary, and we realize that in any event the Government must be carried on. We desire that there should be the sharpest distinction between ordinary constitutional government and the emergency action of a Governor in the event of a breakdown. It is far better, in our view, to make no pretence of carrying on constitutional government where, for the time being, this has failed.

Provincial Legislature

34. The White Paper proposes that in each Governor's Province "there will be a Provincial Legislature, consisting, except in the Provinces of Bengal, the United Provinces and Bihar, of the King represented by the Governor, and of one Chamber, to be known as the Legislative Assembly. In the Provinces just named the Legislature will consist of His Majesty, represented by the Governor, and of two Chambers, to be known respectively as the Legislative Council and the Legislative Assembly." It is also proposed that after a period of ten years "after the commencement of the Constitution Act—(*a*) where the Legislature consists of two Chambers to provide by Act, which both Chambers separately have passed, and have confirmed by a subsequent Act passed not less than two years later, that it shall consist of one Chamber instead of two Chambers; and (*b*) where the Legislature consists of one Chamber, to present an Address to His Majesty praying that the Legislature may be reconstituted with two Chambers." In our view, Second Chambers, as proposed in the White Paper and composed largely of landowners and reactionary elements opposed in general to the wishes of the mass of the people, are undemocratic. We are in favour of one Chamber only. We should like, on this subject, to quote with approval the opinion of some Members of the Indian Statutory Commission.

"It has generally been proposed in evidence before the Joint Conference to constitute Second Chambers disproportionately representative of vested interests. They fear that such Chambers would be regarded as an undemocratic instrument of Government, and that ceaseless conflict between the two Houses would result. They think that this danger will be a real one, however the Second Chambers may be formed. Whilst a Second Chamber will not be a substitute for the Governor's powers, its existence may be used as an argument for modifying the Governor's powers before this is desirable, and it may support the Lower House against the Governor and so increase rather than prevent friction between him and the Legislature. So long as Ministers are secured in the support of the Lower House, and so obtain the funds which they require, the Second Chamber can exercise little control on the administrative side, and it is here that the influence of a Legislature is most required."[1]

In the Joint Memorandum submitted to us by the British India Delegation they pointed out that only one of their number was in favour of Second Chambers in the three Provinces of Bengal, Bihar, and the United Provinces, while another Member of the Delegation considered that only in the case of the United Provinces was a Second Chamber necessary. All the others were totally opposed to the creation of Second Chambers in Bengal, Bihar, and the United Provinces.[2] There are two other arguments against Second Chambers which must be given due weight. The first is the additional cost on Indian revenues, which would be considerable and out of all proportion to the benefit, if any, to be gained; and the second is the drain on the personnel of the Province which would be made by creating so large a number of seats which must be filled.

Composition of the Legislatures

35. We have found ourselves obliged to accept the existing position in India and to agree reluctantly to the continuation of Communal Electorates, and we, therefore, accept the allocation of seats in the White Paper which are based upon the Communal Award issued by His Majesty's Government on August 4th, 1932, with such modifications as have been rendered necessary by the proposal to create a new Province of Orissa, and by the Poona Pact of September 25th, 1932. We have had a considerable amount of criticism of the Poona Pact by representatives from Bengal on the ground that undue representation is given to the Depressed Classes. In our, view, the social and economic position of the Depressed Classes renders it most desirable that they should be given

[1] Indian Statutory Committee Report, Vol. II, p. 99.
[2] Joint Select Committee Records, No. 10, p. 52.

the fullest representation possible, and we consider that the Communal Award, having been made and the Poona Pact having been accepted by representative Indians, it is not desirable at the present time to depart from either of them. We accept the numbers suggested in the White Paper for the Provincial Legislatures, subject to the following alterations. We can see no reason for the provision for special seats for landlords. In the Report of the Indian Statutory Commission, Volume II, Part II, Chapter 2, Section 90, the question of the special representation of landholders was exhaustively reviewed. They came to the conclusion that the landholding interests have in fact at the present time been returned for four times as many seats as were specially reserved for them, and considered that the special protection furnished to them at the present time could be safely withdrawn. We are entirely in agreement with this view. If special representation were needed it should be given not to those who by reason of their wealth and status in the community command influence and power, but to those who by reason of their poverty and low status are likely to find their claims overlooked. We are also opposed to special representation of universities. We know that the Indian Statutory Commission agreed that university seats should be preserved, but with considerable hesitation. From our own experience we find that university seats do not provide a special class of representative differing in any essential from those who find their way into legislative assemblies through general constituencies, and we, therefore, propose that these special seats should be abolished. With regard to the representation of Commerce and Industry and Planting interests, here, again, we consider that the wealth and influence of these classes will always be sufficient to obtain for them adequate representation in the legislatures. In the case of Europeans, where admittedly there may be little likelihood of their being elected from general constituencies, we recognize that, in view of the long connection of the British people with India and the special interests of Europeans, that there should be special representation for them. We believe, also, that the presence of Europeans in the Legislative Assemblies has been welcome to their Indian colleagues as bringing in an experience which has been found very valuable. We think that the representation given to Europeans should be frankly given to them as such and they should not be returned as representatives of Industry and Commerce. The abolition of these special seats will provide for an increase in the number to be allotted to the territorial constituencies and thus allow of some reduction in their area and population. This should, of course, be done with due regard to preserving the communal proportions.

36. We consider also that there should be an increase in the number of seats reserved for Labour. It might be contended that having rejected the claims of the landholding and capitalist classes to special representation, we are not equitable in retaining special seats for Labour. The answer is the same as that applicable to the case of the depressed classes It is necessary to give special protection to those whose economic circumstances render them liable to exploitation. Increased Labour Representation.

The Indian Franchise Committee in its report stressed the importance of adequate representation of Labour in the legislatures, pointing out that "the force of Labour is in its numbers," and that "until a further lowering of the franchise secures it more wholly adequate representation in the electoral roll" special representation is necessary, and it quotes with approval the views expressed by the Royal Commission on Indian Labour "if special electorates are to remain a feature of the Indian Constitution, there is hardly any class with so strong a claim to representation by this method as industrial labour," and further "If special constituencies are retained it should be recognised that Labour has not less claim to representation than employers."[1] With these views we are in full accord.

[1] Indian Franchise Committee Report, Vol. I, p. 3, and pp. 97-98.

The Indian Franchise Committee recommended that 38 seats should be given to Labour in the Provincial Legislative Councils as against 46 seats allocated to Commerce and Industry. The White Paper has increased this disparity by adding yet another 10 to the latter. Vested interests are also reinforced in the White Paper proposals by the votes given to the landlords. The Indian Franchise Committee further pointed out that "the administration of labour legislation must for the most part be in the hands of the provinces and we regard it as essential that the Provincial Legislatures should contain representatives of Labour who can watch over the provincial administration and can represent the legitimate desires and grievances of the industrial labouring class.".

We therefore consider the representation given in the White Paper as quite inadequate. We support the proposal of the Indian National Trade Union Conference that Labour should be given at least 10 per cent. of the total number of seats.

The method of securing Labour Representation.

37 We should prefer that as far as possible Labour representation should be obtained by establishing adult suffrage in the industrial and planting and the large cities We consider that the more developed administration in those areas would be able to cope with increased electorate, while there is no reason why the franchise level should be the same in all constituencies In our own country there was for many years a great diversity of franchise as between urban and rural areas.

We especially desire this method because it is in our view far better that the needs of the wage earners should be brought home to the candidates of all classes who would be affected by the existence of a labour vote than that labour representatives should be returned by constituencies of electors segregated from the rest of the community.

We recognize, however, that this method is at present only of limited application, and that pending the introduction of adult suffrage generally it is necessary to provide for special constituencies.

Trade Union Constituencies.

38 Accordingly we concur with the Indian Franchise Committee's proposals for Trade Union Constituencies as a temporary measure. The recommendation was to form these constituencies in the following manner: -

(a) To qualify as an electoral unit for the purpose of voting for a special Trade Union Constituency, a Union should have been registered for a minimum period of one year (in the case of the first election under the new Constitution six months).

(b) Direct voting where the trade union is confined to one area

(c) Where the Trade Union covers two or more centres, election to the seat or seats allotted to the trade unions in the particular province through an electoral college composed of delegates in each union in the proportion of one for every group of one hundred voters.

(d) In the varying circumstances of individual provinces seats might, if conditions make it feasible and desirable, be allotted from among the trade union seats to be filled by representatives of trade unions of special importance or of specially large membership.

Qualification of electors.

39. The suggested qualifications of electors to trade union constituencies should be :—

(a) Minimum age of 21 years.

(b) Paid up membership for at least six months of a registered trade union, which has itself been in existence for twelve months (in the first election under the new Constitution membership three months, registration of union six months).

They also suggest that a candidate for a trade union constituency should be either a member, or an honorary member, or an official as defined in the Trade Unions Act, of one of the trade unions concerned, his position in any of these capacities to be not less than one year's standing.

40. We are bound to accept the evidence which has been brought before us that at the present time administrative reasons forbid the introduction of adult franchise generally. We, therefore, accept the proposals in the White Paper, subject to what has been stated above with regard to labour representation, with regard to the franchise for male voters. We consider that the constitution should provide definitely for the introduction of adult franchise in the provinces. Power should be given to any Provincial Legislature to widen, but not to narrow the franchise. It should be provided that adult franchise should be in force in all provinces at the general election next following the expiry of ten years from the date of the inauguration of the new provincial constitution. **Franchise.**

41. With regard to women, we consider that the White Paper proposals will not bring into the electorate nearly as many women as is desirable. We entirely agree with the views of the Indian Statutory Commission when they say: "The women's movement in India holds the key of progress, and the results it may achieve are incalculably great. It is not too much to say that India cannot reach the position to which it aspires in the world until its women play their due part as educated citizens.[1] We are well aware of the formidable obstacles which every reformer in this field will encounter, for the position of women in India is bound up with the religious views of the great communities. The development of social consciousness among the women of India is phenomenal, and as far as we can ascertain has not been equalled by any other women's political movement in any other part of the world. The development is the more remarkable considering the impediments which such a movement has had to encounter. Nothing could be more disastrous at this juncture than to create the impression among the women of India that the proposed new Constitution treated of persons of less equal citizenship. We therefore recommend the following modifications in the White Paper proposals for women's franchise:—(1) That the application requirements should be dispensed with altogether. (2) That a literacy qualification should be substituted for the educational standard qualification, and (3) That the wives, pensioned widows, and mothers of Indian officers, non-commissioned officers and soldiers should be enfranchised; (4) That the wife of a man who is qualified as an elector under the new Constitution shall be entitled to a vote. We are aware that this will mean a big addition to the electorate, but we are persuaded that it would be unfortunate if a big addition to the male electorate were made now without a corresponding increase in the women's vote. Delay now would only mean an increase later, which would have an unsettling effect on the political situation in the provinces. **Women's Franchise**

PART III

FEDERATION

42. We are in agreement with the proposal in the White Paper to transform India into a Federation of the British India Provinces and the Indian States. This as the next stage in the evolution of the Indian polity was suggested in the Montagu Chelmsford Report and formed the basis of the whole proposals of the Indian Statutory Commission. At the time when the Indian Statutory Commission reported it was quite uncertain as to whether or not the rulers of the Indian States would be prepared to enter a Federation, but this has since been placed beyond all reasonable doubt by the declarations of Indian rulers. They have, however, significantly declared that they would only be prepared to enter a Federation, the Government of which was responsible. The Indian Statutory Commission pointed out that the formation of a Federation entailed a double process: that of the creation of autonomous Provinces and their reintegration in a Federation. We have no doubt that the double process must be embodied in the same Statute and that **A Federal Union of States and Provinces.**

[1] Vol. I, paragraph 71.

the time lag which may be necessary between the establishment of Provincial autonomy and the creation of the Federation should be no longer than that which is absolutely dictated by administrative necessity. We have already set out our views as to the Constitution in the self-governing Provinces. It remains then to consider on what terms the rulers of the Indian States should enter the Federation.

The Ruler's Instruments of Accession.

43. The White Paper proposes that a Ruler of a State shall signify to the Crown his willingness to accede to the Federation by executing an Instrument of Accession, and this Instrument will, we assume, enable the powers and jurisdiction of the Ruler, in respect of those matters which he had agreed to recognise as Federal Subjects, to be exercised by the Federal authorities brought into existence by the Constitution Act. Outside these limits the autonomy of the States and their relations with the Crown will not be affected in any way by the Constitution Act. We accept generally the list of Federal Subjects given in the White Paper. We consider that it is desirable that the Instrument of Accession should in all cases be in the same form and should, as far as possible, include a similar list of subjects. We recognize that there may be some exceptions due to Treaty rights and special privileges, but we consider that there must be a definite minimum laid down and that as far as possible all States should come in on the same terms.

Accession of a sufficient number of States not to be a condition precedent to Federation.

44. The White Paper suggests that a Federation which comprised the Provinces and only a small number of the States would hardly be deserving of the name. We are unable to agree. We consider that the forces making for Federation are so strong that it is certain that before long a majority of the States, in numbers and population, will accede. At the same time, it is possible that there might be some hesitation at the beginning and we see no reason why the rest of India should wait for a certain number of Rulers of States to change their opinions before enjoying responsibility at the Centre. We would prefer that the Federation should start with a very large proportion of the Indian States included in it, but we believe that in any event a start should be made and that it should be possible to build up a Federation by a gradual accretion of States. It is for this reason, among others, that we desire that the conditions of accession should be uniform, and also, as we shall indicate later, that there should be a definite basis of representation for States adhering

Differentiation of functions of Governor-General and Viceroy.

45. We agree with the proposal in the White Paper, that there must be a legal differentiation of functions between the Representative of the Crown in his capacity as Governor-General of the Federation and as representing the Sovereign in his relationship with the States not adhering to the Federation and to all States in respect of the rights of the Crown outside the sphere of the Federation. We consider that it would be convenient if in his first capacity the King's representative were styled Governor-General and in his second Viceroy.

Area of Federal Jurisdiction.

46. We agree with the proposals of the White Paper, that the area of the Federation should include the whole of British India, with the exception of Aden and Burma. We give below our reasons for holding that Aden should henceforth cease to be part of British India. As regards the States which have acceded to the Federation, the Federal jurisdiction will extend to them only in respect of those matters which the Ruler of the State has agreed in his Instrument of Accession to accept as Federal. We consider that the geographical remoteness of Aden from India and the difficulties of merging it satisfactorily in a new Indian Federation make its separation desirable. Further, it owes its importance essentially to its position as a strategic point on the road to the East. In our view places such as Aden concern the whole Empire and should not be considered the exclusive responsibility of any particular member.

47. We give reasons later for our view that it is desirable that Burma should be separated from India.

PART IV

RESPONSIBILITY AT THE CENTRE

48. We agree that of all proposals in the White Paper the one which has given rise to most controversy is that of giving responsibility at the Centre. We have already given reasons why we consider that this is essential, both as a fulfilment of the pledges of this country to India, and as a condition precedent to the active co-operation of the Indian people in the new Constitution. This, we believe, applies no less to the Rulers of the States than it does to the representative statesmen and people of British India. We feel, however, the necessity of widening the proposals of the White Paper and providing a measure of elasticity so as to give Indians more and more real responsibility for the government of their country. We would here quote from the evidence given to us by Sir Charles Innes, who as a Member of the Indian Civil Service has spent the best part of a life-time in India, in some of the most important Government positions. He gave it as his view that:— The need for responsibility

"Incomplete self-government is the most difficult form of government; it is always, so to speak, reaching out to fulfil itself. Canada in the first half of the 19th century offers in some respects a parallel with the India of to-day. There was an irresponsible executive confronted by a powerful legislature, and Canada had its own communal problem in the rivalry of the French and English Canadians. The effects of these factors were much the same as have manifested themselves in recent years in India. There was a tendency towards irresponsibility on the part of the legislature. The tension between the French and English Canadians increased and there was growing bitterness against the Home Government. Finally, there was a rebellion, and it was only Lord Durham's report that saved Canada for the Empire. He recognized that responsibility was the only real remedy for the situation that had arisen. History is repeating itself in India to-day, and much the same phenomena can be seen. The ferment has been immensely increased by the first instalment of self-government. We have set every person in India who understands the matter at all thinking about political advance. It has become an obsession with almost all educated Indians, and they feel that the honour and self-respect of India are bound up with it. As the Indian Statutory Commission put it, there has grown up 'a passionate determination among the politically-minded classes of all Indian races and religions to assert and uphold the claim of India as a whole to its due place in the world,' and there is in India to-day a real Nationalist movement concentrating in itself all the forces which are 'roused up by an appeal to national dignity and national self-consciousness.' Again, communal feeling between Hindu and Muslim is more acute to-day than it has ever been before, and finally during the last twelve years racial feeling against the British has increased in India. Politically minded Indians tend to believe that the British are standing in the way of their legitimate aspirations and that we do so because in our own interests we are reluctant to give up our hold on India."[1]

49. We think, however, that it is necessary to point out that responsibility may take many forms. We believe that any attempt to try to create responsibility at the Centre by an exact reproduction of the machinery which functions at Westminster would be doomed to failure. In the first place, the system of responsible government as we know it in this country depends on stable divisions on Party lines and, generally speaking, functions satisfactorily where there are only two main Parties. These Parties should not be the creation of groups formed by Members of the Legislature subsequent to their election, but should represent real divisions of opinion which extend back to the constituencies. In the Nature of responsibility.

[1] Joint Committee Minutes of Evidence, p. 550.

Federal Legislature, apart from the communal cleavages which already make the working of the British system difficult in many Provinces, there is to be a sharp division of the Legislature into two categories of members, one of elected representatives from British India, the other of nominees of the Rulers of States. It seems difficult, therefore, to envisage the emergence of Parties on the lines familiar to us in this country. Two further obstacles present themselves The first is that, owing to the nature of the Federation, the Members of the Legislature will not be equally concerned in its territory, and that the jurisdiction of the Federation will not extend as to all subjects equally over that territory, while the other is that the subject matter of Central administration and legislation provides a rather slender basis for a full parliamentary system. We realise that 90 per cent. of everything that concerns the ordinary citizen comes within the ambit of the Provincial administration. For these reasons we consider that responsibility at the Centre will be developed on lines very different from those obtaining at Westminster. We think that it is not always realised in India that the British Cabinet is in fact the master of the Legislature. This is a result of the Party system, for the Cabinet, though formally selected by the Crown, is really composed of the leading members of the Party in a majority. It maintains its power largely through the discipline of the Party machine, backed by the power of dissolution We think that this power of the Ministry to control the Legislature will not be reproduced at Delhi; indeed we think that the Ministry will be far more the servant of the Legislature than its master Under these circumstances, we think that real responsibility will lie rather with the Members of the Legislature than with the Ministers; that is to say, that the Members of the Legislature will have to take full responsibility for their actions. We do not think that the practice, whereby a Ministry is dependent from day to day on a vote of the Legislature during a Session, is workable in India We suggest proposals, which will give what is essential greater stability to the administration

The sphere of responsibility. 50 We do not wish to repeat here what we have already said with regard to special responsibilities We consider that the White Paper proposals in regard to the Governor General are open to the same objection as those suggested in the case of the Provincial Governors and we make the same recommendations for modification In addition we do not think it necessary that the Governor General should have a special responsibility for safeguarding the financial stability and credit of the Federation It is, in our view, useless to give power and responsibility on the one hand and take it away with the other If Indian representatives are not capable of conducting on sound lines the finances of the Federation, they are not capable of self government

Reserved Departments. 51 We see no reason why the Indian Federation should not have control over the Department of Foreign Affairs We recognise that the Viceroy, in his relations with those Indian States which do not join the Federation, and in relation to all the States in regard to those subjects which are outside the Federation will continue to control the Department which in the Government of India has been hitherto described as foreign; but we consider that in its relationship to the rest of the world India is entitled to have the same control over her foreign policy as that which is conceded to the other Dominions. It may be suggested that, inasmuch as Indian Defence is to be a Reserved Subject, Foreign Affairs should also be reserved, but in our view this is to turn the argument inside out. Armaments depend on foreign policy. India has for years paid for her own defence, although the foreign policy of the British Commonwealth of Nations, of which she is a member, has been decided without her having an effective voice We would point out that at the Peace Conferences and subsequently in the League of Nations India has had representation as a nation. We consider that this recognition which was given to her as a consequence of the services of her sons in the Great War

should be given a full content by conceding to her the same degree of control over her external relations as is enjoyed by her sister States in the British Commonwealth.

52. It seems to us a mistake to have a special reserved Department of the Government of India to look after the religious ministrations of the Army and Services in India. Such ministrations, in our opinion, should form part of the organization of the Army and the Services. Whether it is wise to make such ministrations a drain on the revenues of a people of other religions is, we think, a point that has not heretofore been sufficiently considered. The Secretary of State for India, in reply to the Archbishop of Canterbury on the question of reserving Ecclesiastical Affairs, said: Ecclesiastical affairs.

> "(Archbishop of Canterbury): Will you be so good as to define as far as you can the exact range and scope of what is called Ecclesiastical Affairs as a Reserved Department? (Secretary of State) What we intend to mean by the reservation of the Ecclesiastical Department is the reservation of the existing department, namely, the adequate provision of religious ministrations for the Army and the Services. We do not contemplate any further extensions of the Ecclesiastical Department. That, speaking generally, is the kind of department that we have in mind. (Archbishop of Canterbury): So that in point of fact, though for good reasons a Reserved Department, it is a very small matter: it affects only religious provision practically to the troops, the Services, and in a few cases Europeans in certain places? (Secretary of State): Yes Indeed, it is of such definitely limited scope that I have often wondered whether it is necessary to exclude it by name at all- whether it did not really come by implication within the field of the Services and the field of defence but upon the whole I am convinced that it is better to make an exclusion *nominatim*, but it is exactly the kind of department that we have in mind. (Mr Morgan Jones): May I ask whether it does in point of fact involve any ecclesiastical services for civilians who have no relation at all to the Services? (Secretary of State): It is difficult for me off hand to give an answer to that question. I will look into it (Mr Morgan Jones): I will ask it when my turn comes. (Secretary of State) · Generally speaking, subject to a few quite minor exceptions, the answer is that it is intended that this Department should be a Department for the Services and for the Army."

While we are prepared to accept the proposition that so long as we have an Army in India their spiritual needs should be provided for, we cannot see why this can only or best be achieved by the proposal of the White Paper to retain the Ecclesiastical Department permanently as a special Reserved Department of the Government of India We think it would be very much better to abolish this Department and include religious ministrations as an integral part of the Army administration. We would go further and propose that so long as we have an Army and Services in India whose spiritual needs are entirely different from those of the peoples amongst whom they serve, it would be a gracious act on our part if the necessary expenses were placed on British instead of on Indian revenues. We are in any event entirely opposed to this being included as a Reserved Department of the Government of India.

53. We agree that Defence must for some years be a Reserved Department and we accept, therefore, the proposal that the Governor-General should exercise his functions through a Counsellor. We consider that this Counsellor should form part of a unified Ministry. We recognize the serious constitutional issue raised by the existence of the Indian Defence Problem and the way in which it is met at the present time by the Army in India. So long as British troops are employed in India, whether for external defence or for internal security, it is, in our view, impossible to bring them under the orders of a responsible Minister. The Indian Statutory Commission examined the whole constitutional position created by the existence of the Indian Army at great length, Defence

and they recognized that it was a formidable obstacle to the development of complete self-government. We believe that Indian public opinion is extremely sensitive on this point, but that the majority of the leading statesmen recognize the hard facts of the situation. At the same time we believe that it is essential that the Constitution should contain provisions for the bringing to an end of an anomalous position We consider that there should be a definite programme of Indianization with a time limit of thirty years. It may be urged that it is impossible to lay down an exact period within which an Indianized Army would be capable of the defence of India. There may be truth in this, but we consider that it is necessary, if the work of Indianization is to be pushed forward with the greatest possible energy, that there should be a clearly marked time by which the goal is to be attained. From a study of such reports and documents that have been available to us, we believe that this could be successfully accomplished, in a period of twenty five years We suggest that that period should be aimed at, but that a maximum of thirty years should be fixed which much not be exceeded

The Burden of Defence.

At the same time, we are impressed with the very large proportion of her revenues which India spends on Defence. We do not suggest that this is in excess of the amount needed to maintain sufficient forces for the requirements of India, and we are aware that a recent agreement on the subject of the capitation payments has resulted in an advantage of a million pounds a year in India's favour, but we consider that as compared with other parts of the Empire outside the United Kingdom, India has for years borne, and is still bearing, an undue expense It may be urged that India's defence by sea is provided by Great Britain, but her danger from the sea is a potential rather than an actual menace India possesses in the North West Frontier the one land frontier in the whole of the British Commonwealth which not only borders on areas which are frequently liable to be disturbed, but is exposed to the possibility of invasion by a hostile power. While we recognize the vital necessity of the safe keeping of this frontier in the interests of India herself, we cannot but recognize that the menace to that barrier may well result, not from anything which India herself does but from the mere fact of her being a Member of the British Commonwealth We therefore consider that the whole question of Imperial Defence and the responsibilities of the various Members of the British Commonwealth should be reviewed at an early date in order that it may be considered as to how far the burden now borne by India is equitable While we agree that Defence must continue to be a reserved subject, we are strongly impressed with the need for building up an informed opinion on Defence matters, and we therefore propose that there should be a Standing Defence Committee of the Legislature.

The Federal Executive.

54. The Federal Executive should, in our view, consist of the Governor General, the Counsellor in charge of Defence, and Ministers, the number of which we think it undesirable to specify. We consider that when the Legislature has been constituted of Members from the States and Provinces the Governor-General should consult with leading members in order to find out what combination of persons would be likely to command the confidence of the Legislature He should then submit these Ministers and the Counsellor in charge of Defence as a Ministry to the Legislature for a Vote of Confidence. The Vote should signify the acceptance by the Legislature of the Ministry, and thereafter the Ministry should remain in office for a definite term during which period it could only be removed by a definite vote of No Confidence carried by a two-thirds majority. We conceive of the position of the Ministry as something like that of the Swiss Executive. Formal joint responsibility would not be explicitly laid down, as, indeed, it is not in most constitutions, but the acts of the Government would be the acts of all, and although the Ministry would be composed of heterogeneous elements it would be subject to the very powerful influences which tend to bring solidarity to a body of men in positions of responsibility. We consider that in the early stages of the new Constitution the Governor-General

will preside at meetings of his cabinet and that only at a later stage will this practice fall into desuetude. There should, however, be a first Minister, who will preside in the absence of the Governor-General and lead in the Legislature. He should hold a portfolio without too heavy an administrative content. For the working of the Legislative machine we suggest the setting up of a number of standing committees, some of which Defence, Finance Foreign Affairs, should be statutory. These committees should correspond with the functions of the Central Government. They would meet from time to time during the Session. The Minister should preside, while in the case of the Defence, the official Member would do so. We conceive of these committees working somewhat on the lines of those in municipal or in the Ceylon Constitution. The object should be to bring the members of the Legislature into real contact with administration. We think that the Committee stage of a Bill should, wherever possible, be remitted to the standing committee dealing with the particular function of government concerned. We think that in this way, through a developed committee system, much of the difficulty which has been brought to our notice of State Members voting on purely British India questions will be avoided. It would be natural to remit Bills dealing solely with British India to committees of members drawn only from British India. The Defence Committee would have less control than other committees, such as those dealing with finance and foreign affairs, but would, we think, form a valuable field of experience for members. We consider that at all these committees it should be the usual practice for officials to be present, not for influencing policy, but for providing information. In our view, owing to the subject matter which would be dealt with at the Centre and to the position of the Federation, it is unlikely that governments will be formed with definite legislative programmes, as in this country. We think that much legislation will come forward in the way of private members' Bills. We have made this general sketch of the way in which we might expect responsibility to be exercised at the Centre, because it is important to realize that the British system is not the only system and that it is itself susceptible of reform in some directions. It is a question as to what provisions can be included in the Constitution Act itself. We would rather leave the development of the Constitution at the Centre to the elected Members to work out the forms and methods which seem appropriate. We attach importance, however, to the provision which will give to the Ministry some degree of stability, for we have seen in many countries, where there has been no stable Party system in Legislatures but only a number of groups, the danger and weakness entailed by constant changes of Ministry; and we should desire that at the Centre, from the start, it should not be assumed that because the Legislature takes a different view from the Ministry on a particular point that therefore the Minister should resign. We consider that changes of Ministry should only take place as the result of a direct Vote of No Confidence.

55. We have found the greatest difficulty in deciding the question of the method of election to the Central Legislature. It should be recognized that to attempt to provide a legislative body which shall be representative of a population of over 350 millions is without precedent. We are met at the outset by the difficulty of applying the representative system to a unit of such magnitude. We are reluctant to establish at the Centre a very large body, because we do not think that the subject matter which will be dealt with there will give sufficient occupation to the Members, while the larger the body, the more difficult is effective working. On the other hand, a small Legislature means very large constituencies in which the problem of widening the franchise may present some formidable difficulties. Our objection to Second Chambers in the Provinces applies also to the Centre; indeed, it is strengthened. As we understand the proposals of the White Paper, it is suggested that there should be two Chambers of equal power and of very similar composition, and that in the event of differences between the two Houses, the device of a Joint Session should be employed. We consider that, in

The Federal Legislature.

effect, this really makes the Central Legislature a single Chamber, meeting for certain purposes in two sections, and makes an unnecessary duplication of representation, which results in an unwieldly body of legislatures. We, therefore, propose that there should be only one Chamber at the Centre, and we accept the proportions laid down for representation from the Provinces and the States as apply to a single chamber.

States' Representatives.

56. We realize the difficulty in adjusting the representation of the varied States. The proposal submitted is to allocate seats to both Houses and seems to combine the criteria of status and population. We consider that the introduction of status unnecessarily complicates the question, and we would desire to see laid down a definite population basis for representation, though we recognize that it may be difficult to obtain consent to this simplification. In any event, we think that there should be a definite formula which could be applied to every State, so that if, as may well be, the Federation is built up by the gradual accession of States, there may be at hand the means of allocating forthwith the representation to which any particular State is entitled. We are opposed to the proposal in the White Paper that any weightage should be given to the States' Representatives if the full number of States has not joined the Federation. We think that by allowing only such representation to the States side as is proportionate to the number and population of the States acceding there will be an incentive on the part of those in the Federation to work for the inclusion of others.

Provincial Members

57. We have examined the proportion of members allocated to the various Provinces, and while we recognize that a smaller Province must have some addition to its population ratio, we are unable to accept the differentiation made in favour of Bombay and the Punjab at the expense of Madras, Bengal and the United Provinces. We see no reason why Bombay should be allocated almost two members per million while Madras and Bengal get less than one. We consider that all Provinces, with the exceptions mentioned above, should come in on an equal basis. We have considered very carefully the rival claims of direct and indirect election. On the one hand, direct election is favoured by the majority of Indian politicians who have become accustomed to it during the period of the Montagu Chelmsford Reforms, and it is feared that without a direct election to Centre may tend to be merely the expression of the separatist feelings of a number of Provinces and that the danger of corruption is increased by placing the choice of representatives in the hands of so few electors. On the other hand, we feel grave difficulty in the fact that direct election involves constituencies of very large area and with very large electorates, even on the basis of the franchise proposed in the White Paper. In particular, as we are in favour of adult suffrage, whenever that is practicably attainable, we see great difficulties in its application to the Central Government without creating an unwieldy body of legislatures. We have, however, been forced to come to a conclusion on the matter, and we consider that the weight of argument falls on the side of direct election. We have already expressed our objections to special representation being given to the landlords, the universities, commerce and industry and these objections hold good at the Centre as well as in the Provinces. We recognize, however, that there is a case for some representation of commerce and industry at the Centre, in view of the character of the questions which will come up for decision here, and we should therefore, as a temporary measure, be prepared to see some representation given to those interests. In other respects, we accept the allocation of seats given in the White Paper, subject to the following variations:—

Representation of Labour at the Centre.

58. The White Paper proposes that in the Federal Assembly Labour should be given ten seats as against twenty-six assigned altogether to the representatives of Commerce and Industry, the landlords and the Europeans. We regard this as wholly disproportionate as it would mean that Labour would only have 4 per cent. of the total seats from British

India, and that a few thousand Europeans would have a greater voting strength than the many millions of industrial and rural wage earners. As is pointed out by the Indian Franchise Committee, Labour legislation will be predominantly a Federal subject under the new constitution, while the restricted franchise at the Centre will not bring on the electoral roll the same proportion of the working classes as in the case of the provincial legislatures It is, therefore, especially important that Labour representation should be adequate

We recommend, therefore, that the seats allotted to Labour should be raised to twenty-six

We note that according to the White Paper the distribution of seats is to be on a provincial basis We suggest that this requires modification Certain trades and industries, such as textiles and railways are distributed over more than one province If seats should be allocated on a purely provincial basis, certain trade unions would be handicapped, while others would be given more than their reasonable quota of representation We recommend that Labour seats should be fixed on an industrial basis with due regard to provincial considerations

Federal Franchise

59 We accept the provisions of the White Paper for the Federal Franchise subject to the amendments which we have suggested in respect of the qualifications of women electors, and to our proposals in regard to Labour representation, but we desire to state that we regard the provision as only a temporary one until a means can be found of extending the franchise and of making the British India side of the Federal Legislature more representative of the masses of the people

Relations between the Federation and the Federal Units.

60 The transformation of British India from a unitary into a federal state necessitates a complete readjustment of the relations between the Federal and the Provincial Governments Hitherto the Provincial Governments have been subordinate to the Central Government they are under an obligation to obey its orders and directions, but under the new constitution the representative spheres of the Centre and the Provinces will be strictly delimited, and the jurisdiction of each will exclude the jurisdiction of the other We are impressed by the possible dangers of a too strict adherence to the principles of what is known as Provincial Autonomy The Indian Statutory Commission in its recommendations for Provincial Autonomy was, we think, not unaffected by the desire to give the largest possible ambit to autonomy in the Provincial sphere owing to their inability at that time to recommend responsibility at the Centre The larger measure of Indian self government which has obtained in the Provinces during the past twelve years has also, we think, tended to develop, and perhaps over develop, a desire for complete freedom of control from the Centre It is however clear to us that there are many matters of administration in which the closest co operation is needed between Province and Province and also between Provinces and States It is obvious that there may be differences of policy in regard to irrigation and forests, whereby one unit of the Federation may be injured by another and the Constitution provides for no redress We do not think it is possible to give definite powers to the Federal Government in these respects, but we consider that every effort should be made to develop inter Provincial conferences, wherein administrative problems common to adjacent areas and points of difference may be discussed and adjusted We think also that where there are definite disputes between Provinces, the Governor General should be empowered to adjudicate on the appeal of an aggrieved unit, and, unless he thinks fit summarily to reject the application, he should be required to appoint an advisory tribunal for the purpose of investigating the report upon the complaint.

PART V

SPECIAL SUBJECTS

61. We have already stated that we are in general agreement with the plan in the White Paper for the distribution of legislative powers between the Centre and the Provinces, and we agree that where in the concurrent field there is a conflict of legislatures the Federal law should prevail, but we see certain difficulties in the provision that the Federation should be forbidden to pass legislation imposing a financial burden on the Provinces. The matter particularly arises in respect of Labour Legislation.

Labour Legislation.

62. It is proposed in the White Paper that such subjects as Health Insurance and Invalidity and Old Age Pensions should be subjects of Provincial Legislation We see serious objection to this, and consider that they should be included in the Concurrent List. While it is necessary that the more industrialized Provinces should be able to legislate on these subjects in the interests of the urban workers and should not have to wait for the concurrence of those which are predominantly rural, it is undesirable to exclude the possibility of All-India legislation which may well become necessary in order that there should be uniformity of treatment of the workers as between Province and Province and that industry in one Province should be burdened with obligations not imposed in another. Mr. N. M. Joshi, in the Memorandum submitted by him, argued that social insurance should also be included in the list of Federal subjects, but here, again, we consider it would be better that it should be in the concurrent list. We consider that in order to obtain an All-India Code of Labour and social legislation it is necessary that the Federal Legislature should have power to pass legislation imposing financial liabilities on the Provincial Governments, but that where this is done grants-in-aid from Federal revenues should be paid to the Provinces and also to such Indian States as are prepared to put in force such legislation. It should, in our view, follow that there should be a central inspection and a measure of control, wherever such grants are made. We consider that there seems much to be said for utilizing the machinery of adoptive Acts as used in Great Britain in connection with Local Government legislation. We have to endeavour to steer a course between delay caused by the difficulty of getting less advanced Provinces to agree to such legislation, and the possibility of friction in such matters as factory legislation as between Province and Province or the Provinces and the States. The mechanism of the adoptive Act supported by grants-in-aid in return for inspection seems to us unobjectionable in theory and useful in practice.

Residuary Powers.

63. We recognize that among Indian statesmen there is a considerable difference of opinion in regard to the disposal of residuary powers. Broadly speaking, the Hindu community is in favour of their allocation to the Central Legislature, while the Muslims wish that they should be given to the Provinces. We do not think that this difference of opinion is due to any real disagreement on grounds of constitutional theory, but is dictated by the supposed interests of the two communities, and we feel, therefore, free to consider the matter entirely on its merits, apart from any question of the views that have been put before us by the contending parties. It has generally been the case that in the formation of Federal Constitutions in the early stages centrifugal tendencies have been very strong. These tendencies have in India been reinforced by the fact that a greater degree of responsibility was given under the Montagu-Chelmsford Reforms to the Provinces than to the Centre, and the Representatives of the Provinces have not infrequently tended to press to an extreme the conception of Provincial Autonomy

So that, in fact, a Central Government becomes nothing more than a weak and ineffective link between a number of autonomous units We recognize that the composition of the Central Legislature, representing as it will partly the Provinces and partly the Indian States, may seem to reinforce the arguments of those who claim that residual powers should be in the Provinces, but it has been a general experience in Federations that after a period of time it has been found that the powers of the Central Government are insufficient and that too great a degree of autonomy has been given to Provincial units We are not unmindful of the danger of centrifugal tendencies developing in India, particularly in view of the fact that some Provinces differ from others in the predominance of certain communities, and we should be unwilling in any way to strengthen and encourage tendencies which would work against the unity of India We therefore consider that in view of future possibilities, it would be wise that the residuary powers should remain with the Centre

64 We agree with the proposals contained in paragraph 39 of the White Paper, subject to one change The paragraph suggests that the Budget will be framed by the Finance Minister in consultation with his colleagues and the Governor General" We would prefer that the arrangement of the Budget should be in the hands of the Ministry alone, but that it should be their clear duty to make provision for appropriations required for the Reserved Departments and for the discharge of the functions of the Crown in relation to the Indian States, which appropriations will be taken by the Governor General on his own responsibility In regard to these appropriations, we note with approval the intimation that the Governor General will be enjoined by his Instrument of Instructions to consult his Ministers before reaching any decision on appropriations for the Department of Defence' We also are in general agreement with the proposals contained in paragraphs 56, on page 28 of the White Paper, and the subsequent paragraphs relating to the allocation of revenues between the Federation and the Unit We further agree with proposals 95 to 100 of the White Paper as to the procedure with regard to financial proposals Finance.

As we have already indicated, we are opposed to the creation of Second Chambers, but, in any event we could not agree to Money Bills being submitted to Joint Sessions of both Houses, or, indeed, being controlled in any way by an Upper House With regard to Federal finance, the White Paper says the Governor General, if he is unable to accept the proposals of his Ministers or the decision of the Legislature as consistent with the discharge of any of his special responsibilities, will be enabled to bring the resulting appropriations into accord with his own estimates of the requirements, and if necessary, through his special legislative powers, to secure that the annual Finance Act provides him with resources which will cover the appropriations which he finally authenticates" The Governor General has, therefore, two justifications for interfering with financial autonomy, (1) the need for ensuring sufficient supplies for his Reserved Subjects and for certain salaries, and (2) a special responsibility for the 'safety of the financial stability and credit of the Federation" While the first safeguard is probably necessary, so long as there are Reserved Subjects there should be recognized conditions under which the second responsibility should cease to be operative We do not hold that the investment of British money forms any justification for special safeguarding In any event, this should only continue until India has established her independent status as a borrower in the world's money market

65 We are of opinion that the Financial Adviser to be appointed under the White Paper proposals should not be appointed for an indefinite period, but should have a time limit of not more than ten years, unless his services are requested thereafter by the Minister His sphere of advice should be limited to the special responsibilities of the Governor-General, though his advice should be at the disposal of the Prime Minister and, indeed, of the whole of the Government of India He should not, however, on any account, be in a position to interfere Financial Adviser.

in the normal sphere of the Finance Member. He should be chosen by the Governor-General in consultation with his Ministers. The White Paper places a special responsibility on the Governor-General for "the safeguarding of the financial stability and credit of the Federation, in order to confer on him powers to step in if the need should arise in the event of the policy of his Ministers in respect of, for example, budgeting or borrowing being such as to be likely, in the Governor-General's opinion, to endanger seriously the provision of resources to meet the requirements of his Reserved Departments or any of the obligations of the Federation, whether directly or indirectly, by prejudicing India's credit in the money markets of the world." It is in order to assist him in the discharge of this special responsibility that the Governor-General is to be empowered to appoint a Financial Adviser. There is no doubt that the credit of India in the money markets of the world is of primary and overwhelming interest to India, even more than to this country. We agree with the Indian Delegates, therefore when they state in their Memorandum that the Financial Adviser should be an Adviser to the Indian Government. In view of the Memorandum submitted to us by Sir Malcolm Hailey, it is a vital necessity that, taking into consideration the heavy expense that is bound to be entailed in setting up the new Constitution, with a greatly enlarge franchise, the strictest economy should be observed wherever it is possible, without detracting from the nation-building services. We would suggest that the most fruitful fields for the practice of this economy would be (a) in the Army expenditure; (b) in the transfer at as early a date as possible of the terms of future recruitment, pay, etc., of the services to the Governments in India; and (c) in having single-Chamber Government, both for the Federation and the Provinces. We think that the Federal Legislature should be empowered, whenever necessary, to impose financial obligations on the Provincial Legislatures in order to secure uniformity throughout the Federation in connection with labour or social legislation. We agree with the White Paper that a special responsibility for the financial stability of the Provinces should not be imposed on Governors.

Commercial Discrimination.

66. India has, since the inauguration of the present Constitution in 1921, worked under a convention which gives her full autonomy in her fiscal affairs—without any interference from Whitehall on any matters on which the Government of India and the Legislature are in agreement. This followed on the Report of the Joint Committee of both Houses of Parliament of 17th November, 1919. Paragraph 33 of that Report said *inter alia* that:

> "Nothing is more likely to endanger the good relations between India and Great Britain than a belief that India's fiscal policy is dictated from Whitehall in the interests of the trade and commerce of Great Britain. That such a belief exists at the moment there can be no doubt. That there ought to be no room for it in the future is equally clear . . .
>
> "Whatever be the right fiscal policy for India, for the needs of her consumers as well as for her manufacturers, it is quite clear that she should have the same liberty to consider her interests as Great Britain, Australia, New Zealand, Canada and South Africa."

His Majesty's Government accepted this recommendation and it was intimated to the Government of India by the Secretary of State on 30th June, 1931. The Statutory Commission in their Report quote the statement made by the Secretary of State in March, 1931, that:

> "After the Report by an authoritative Committee of both Houses and Lord Curzon's promise in the House of Lords, it was absolutely impossible for me to interfere with the right which I believe was wisely given and which I am determined to maintain —to give to the Government of India the right to consider the interests of India first just as we, without any complaint from any other parts of the Empire, and the other parts of the

Empire, without any complaint from us, have always chosen the tariff arrangements which they think best fitted for their needs, thinking of their own citizens first."[1]

In the course of his evidence before us, Sir Charles Innes, who, before taking up his duties as Governor of Burma, was on the Council of the Governor-General of India as Commerce Member, said in regard to India's attitude to the Ottawa agreements:

"I think it was mainly due to the fact that the Indians realized that it was for themselves to decide whether or not they would ratify that agreement. In the old days, before we introduced this principle of discriminating protection, every Indian thought that Britain kept India a free trade country in the interest of her own trade. When the Fiscal Convention was introduced and when we passed a Resolution in favour of discriminating protection, and the first Steel Bill was passed, we at once transferred all that from the political sphere to the economic sphere, and in recent years in the Indian Legislative Assembly more and more we have been creating a strong Free Trade Party. It was getting more and more difficult for me to pass Protection Bills. I think that is all to the good: it shows the value of responsibility, and I am perfectly sure that if we had not taken that action, you would never have got the Indian to agree to the British preference on steel, or to the Ottawa agreement, and it seems to me a very good example of the stimulating effect of responsibility."[2]

We realize the importance of giving full weight to this evidence on the value of placing responsibility on the Indian Legislature, coming, as it does, from one who is in a position to speak with authority.

The Statutory Commission further point out that.—

An understanding analogous to the fiscal convention has been arrived at in one other region. The Secretary of State has relinquished his control of policy in the matter of the purchase of Government stores for India, other than military stores. The Governments in India in agreement with the legislatures, are now free to buy stores in India, in this country, or abroad, as seems best to them, and the Secretary of State though he is by statute responsible to Parliament, has undertaken not to intervene."[3]

There is much force in Mr. Baldwin's words:—

"All the safeguards are being examined by the Joint Select Committee, but whatever safeguards we have the real safeguard is the maintenance of goodwill. If there is not a basis of goodwill, your trade will eventually wither away, and I regret to say that some of the measures which have been suggested and which Lancashire people have been asked to support, have, in my judgment, been calculated to destroy rather than to further any possibility of that goodwill between Lancashire and India which we can get, which we ought to get, and which we cannot do without . . .

"The boycott has died away . . . by a conviction in the minds of the Indians themselves that we were going to deal honourably with them and keep our word about getting on with the reforms."[4]

The same idea is expressed in the Memorandum submitted to us by Sir Tej Bahadur Sapru:—

"The best safeguard that Lancashire, or for the matter of that England, can have for trade and commerce in India, is the goodwill of the people of India."[5]

We think, therefore, that the time has now come to recognize in the Constitution Act the right and the responsibility of India to settle her own fiscal affairs as freely as and on a basis of equality with Great Britain and the Dominions.

[1] Vol. I, p. 356, para. 402.
[2] Minutes of Evidence Joint Committee, p. 564.
[3] Indian Statutory Commission Report, Vol. I, p. 356, para 402.
[4] "Times," 30th June, 1933.
[5] Record No. 10, p. 27, para. 42, 16th November, 1933.

We agree with the British India delegates in their Memorandum submitted to us, that the question of Commercial Discrimination might be left to the commercial interests in India and England who would doubtless be able to evolve a friendly settlement by negotiation. Failing that, we agree that it might be provided in the Constitution Act that anything of the nature of discriminatory legislation should require the previous assent of the Governor General. We think that the formula proposed by the Indian delegates should be adopted, namely, that the Governor General should not be entitled to refuse his assent unless he is assured that the object of the legislation is, in the words of the Montagu-Chelmsford Report, "not so much to promote Indian commerce as to injure British commerce," or, as proposed by the Statutory Commission, "in order to prevent serious prejudice to one or more sections of the community as compared with other sections."

Disallowance of Acts.

67. We think that the provision for disallowance by the King in Council at any time within twelve months of Acts passed by the Legislature and approved by the Governor-General is a retrograde step for which no reasonable excuse can be put forward. This power which was formerly embodied in some of the Dominion constitutions was finally abandoned by the Statute of Westminster and we see no need to resuscitate it in the case of India.

Fundamental Rights

68. We are impressed with the insistence with which Indians of all sorts of opinion ask that a statement of their "fundamental rights" should find a place in the new Constitution Act. The Report of the Indian All Parties Conference also made a strong point of this. The authors of the White Paper "see serious objections" to giving statutory expression to a declaration of this character, and suggest that in connection with the inauguration of the new Constitution a pronouncement on the matter might be made by the Sovereign. We cannot forget that such a pronouncement was made by her late Majesty Queen Victoria in these words:—

> "We declare it to be our Royal will and pleasure that none be in any wise favoured, none elected, or disquieted, by reason of their religious faith or observances, but that all shall alike enjoy the equal and impartial protection of the law, and we do strictly charge and enjoin all those who may be in authority under us that they abstain from all interference with the religious belief or worship of any of our subjects on pain of our highest displeasure.
>
> "And it is our further will that, so far as may be, our subjects, of whatever race or creed, be freely and impartially admitted to office in our service the duties of which they may be qualified by their education, ability and integrity to discharge.
>
> "We know and respect the feelings of attachment with which the natives of India regard the lands inherited by them from their ancestors, and we desire to protect them in all rights connected therewith, subject to the equitable demands of the State, and we will see that generally in framing and administering the law, due regard be paid to the ancient rights, usages, and customs, of India."

We cannot pretend to believe that full effect has been given to the terms of that Royal Proclamation in India. In view of the fact that it has been impressed on the Indian delegates that no pledges or declarations are binding save such as are embodied in Acts of Parliament, we think the Indian plea is sound, that whenever possible their fundamental rights should be embodied in the Constitution Act and so

be secured to them beyond the possibility of doubt A proposed list of these "fundamental rights" is given in Chapter 7 of the Report of the Indian All Parties Conference [1] In reference to these they say —

> "Our first care should be to have our fundamental rights guaranteed in a manner which will not admit their withdrawal under any circumstances With perhaps less reason than we have most of the modern constitutions of Europe have specific provisions to secure such rights to the people "[2]

They go on very pertinently to say that —

> "Another reason why great importance attaches to a declaration of rights is the unfortunate existence of communal differences in the country Certain safeguards and guarantees are necessary to create and establish a sense of security among those who look upon each other with distrust and suspicion We could not better secure the full enjoyment of religious and communal rights to all communities than by including them among the basic principles of the constitution "[3]

69 The High Commissioner for India is at present appointed under Section 29A of the Government of India Act and he has certain powers delegated to him by the Secretary of State for India or the Secretary of State in Council with regard to making contracts The various Dominions appoint their own High Commissioners as a matter of right without any provision being necessary in their constitutions We think that India should in this matter, stand in the same position as the Dominions and that the High Commissioner for India should have an equal status and full powers to act on the instructions of the Government of India without any necessity of reference to Whitehall *High Commissioner*

70 We now come to what we consider to be one of the most important points of the new Constitution the position of the India Office It is the negation of responsible self government to have an India Office continue to exist on anything like the same lines as have obtained since the Crown took over the administration from the East India Company If the Government of India have been an autocracy the India Office has been much more so It was said by the Viceroy Lord Chelmsford at the inauguration of the present Constitution, that "autocracy is now definitely abandoned" We believe that the time has come to give practical effect to this state of affairs We should like to see Indian affairs brought at once under the Dominions Office Failing this and as a step in that direction our proposal is that the India Office should be done away with entirely and a new Office created with a Secretary of State for the self governing parts of the British Commonwealth of Nations in the East This would include not only India but also Ceylon Burma if separated and other portions of the British Commonwealth of Nations in the East as and when they become self governing *Secretary of State for Self Governing Areas*

71 We are strongly of opinion that the Advisers of the Secretary of State should not exceed three in number and should be all India's or— in the event of our proposals being adopted for a new Office and Secretary of State for the self governing portions of the Empire in the East— drawn from such self governing territory *Secretary of States' Advisers*

72 During the three sessions of the Indian Round Table Conference this matter, being of comparatively minor importance did not come up for discussion It was one of the matters however which the Governor General discussed in Delhi with the Consultative Committee There is general agreement that there should be a Statutory Railway Board We are of opinion, however, that this Board should be set up *Railway Board*

[1] Report of the All Parties Conference, pp 101 103
[2] *Ibid*, p 89
[3] " p 90

by the Central Indian Legislature to whom it should be responsible. The Minister who is responsible to the Legislature for the Indian Railways and for the Railway Budget should be *ex-officio* Chairman of the Railway Board, but we consider that it is undesirable that he should be subject to interpellation on details of administration, parti cularly those relating to appointments and promotions.

Reserve Bank.

73. The White Paper proposes, in paragraph 32, that a Reserve Bank, "free from political influence, will have been set up by Indian legislation," before the first Federal Ministry comes into being. If it should be proved impossible successfully to start the Reserve Bank, His Majesty's Government "are pledged to call into conference representatives of Indian opinion." We note that neither at the first nor at the second Round Table Conference was the establishment of the Reserve Bank treated as a condition precedent to the inauguration of the Federation. It was an entirely new proposal brought forward at the third Round Table Conference. We understand that the Indian Legislature has already passed a Reserve Bank of India Act, and we venture to hope that the date of its inauguration may be speedily decided, since we understand that the beginning of the Indian Federation depends upon it. Assuming the establishment of the Bank, we suggest that the Governor and Deputy Governor should be selected by the Governor-General in consultation with his Ministers.

We are not in agreement with the underlying conception of the establishment of the Reserve Bank, namely, that it should be entirely free from political influence.

We consider that decision of policy in respect of credit and currency are vital interests of the community. They should not be made by shareholders whose private interests may not coincide with the welfare of the State, but should be influenced by the Government.

In any event it should be made clear that India's currency and credit policy will be decided in accordance with her own needs and not by the influence of external financial interests or foreign creditors.

The Judicature.

74. We are in substantial agreement with the proposals in the White Paper with regard to the future of the Judicature and for the establishment of a Federal Court, but we dissent from the proposal to create a separate Supreme Court of Appeal. We consider that the object in view would be more conveniently attained by giving to the Legislature power to extend the jurisdiction of the Federal Court. We assume that if this were done the Court would sit in two Chambers, the first dealing with Federal and the second with British-India Appeals.

The Public Services.

75. We are generally in agreement with the proposals in the White Paper with regard to the future of the Public Services, but would recommend two alterations. In the first place we consider that despite the strong arguments submitted to us for the retention of recruiting to the Security Services by the Secretary of State, it is preferable, in view of the strength of Indian sentiment on the point that future recruitment for these services should be in the hands of the Governor-General. Secondly we consider that without impairing the efficiency of the administration some acceleration in the rate of Indianization is practicable.

Burma.

76. We are in general agreement with the proposals in the White Paper regarding the future constitution of Burma. Despite the conflicting results of recent elections we are convinced that the majority of the people of that country are in favour of separation from India and that the anti-separationist movement is actuated rather by desire to obtain a more advanced constitution for a separated Burma than by a wish to keep their country as a province in an Indian Federation.

We have already in discussing the Indian problem stated our objections to Second Chambers and to the continuation of the Ecclesiastical Establishment and we content ourselves here with saying that the same objections hold good in respect of Burma.

We also would express the hope that the maintenance of communal electorates may be only a temporary phase in the progress towards complete self-government.

The same is read.

It is moved by the Lord in the Chair that the Draft Report laid before the Committee by himself be now considered.

It is moved by Mr Attlee, as an amendment to the above motion, that the Draft Report laid before the Committee by himself be considered in lieu thereof.

Objected to

On Question:—

Contents (4)	Not Contents (24).
Lord Snell	Lord Archbishop of Canterbury
Mr Attlee	Marquess of Salisbury
Mr Cocks	Marquess of Zetland
Mr Morgan Jones	Marquess of Linlithgow
	Marquess of Reading.
	Earl of Derby
	Earl of Lytton
	Earl Peel.
	Viscount Halifax
	Lord Middleton.
	Lord Ker (M Lothian)
	Lord Hardinge of Penshurst
	Lord Rankeillour.
	Lord Hutchison of Montrose
	Mr Butler.
	Major Cadogan.
	Sir Reginald Craddock
	Mr. Davidson.
	Mr. Foot.
	Sir Samuel Hoare.
	Sir Joseph Nall.
	Lord Eustace Percy.
	Sir John Simon.
	Earl Winterton.

The said amendment to the above motion is disagreed to

It is moved by the Lord in the Chair that the original motion, that the Draft Report laid before the Committee by himself be considered, be agreed to:—

Objected to.

On Question:—

Contents (19)	Not Contents (9)
Lord Archbishop of Canterbury.	Marquess of Salisbury.
Marquess of Zetland.	Lord Middleton
Marquess of Linlithgow	Lord Snell.
Marquess of Reading	Lord Rankeillour.
Earl of Derby.	Mr Attlee
Earl of Lytton.	Mr. Cocks.
Earl Peel.	Sir Reginald Craddock
Viscount Halifax	Mr Morgan Jones
Lord Ker (M. Lothian)	Sir Joseph Nall
Lord Hardinge of Penshurst	
Lord Hutchison of Montrose.	
Mr Butler	
Major Cadogan.	
Mr Davidson	
Mr Foot.	
Sir Samuel Hoare.	
Lord Eustace Percy.	
Sir John Simon.	
Earl Winterton.	

The original motion is agreed to.

Ordered that the Committee be adjourned till to-morrow at half past Ten o'clock.

Die Martis 19° Junii 1934

Present

LORD ARCHBISHOP OF CANTERBURY
MARQUESS OF SALISBURY
MARQUESS OF ZETLAND
MARQUESS OF LINLITHGOW
MARQUESS OF READING
EARL OF DERBY
EARL OF LYTTON
EARL PEEL
VISCOUNT HALIFAX
LORD MIDDLETON
LORD KER (M LOTHIAN)
LORD HARDINGE OF PENSHURST
LORD SNELL
LORD RANKEILLOUR
LORD HUTCHISON OF MONTROSE

MR ATTLEE
MR BUTLER
MAJOR CADOGAN
MR COCKS
SIR REGINALD CRADDOCK
MR DAVIDSON
MR FOOT
SIR SAMUEL HOARE
MR MORGAN JONES
SIR JOSEPH NALL
LORD EUSTACE PERCY
SIR JOHN WARDLAW MILNE
EARL WINTERTON

THE MARQUESS OF LINLITHGOW in the Chair

The Order of Adjournment is read
The Proceedings of yesterday are read
PART I* is again read and postponed
PART II is considered
Paragraph 43 is again read and postponed
Paragraphs 44 and 45 are again read

It is moved by the Marquess of Salisbury to leave out paragraphs 44 and 45 and to insert the following new paragraph

(44 It is unnecessary to discuss how far there have been pledges by this Country to carry out a policy of self government in India or how far these have been conditional because the Secretary of State on behalf of His Majesty s Government has stated that the reference to the Joint Committee leaves the recommendations it is to make unreservedly in its hands Nevertheless undoubtedly a solemn declaration was made in the Act of 1919 that this Country intends to give an increasing measure of self government to India and the Committee has been appointed to ascertain how this can best be effected The White Paper contains the proposals primarily submitted to our consideration but the White Paper itself has grown out of the Report of the Statutory Commission and in considering the White Paper we ought to keep constantly in mind not only the facts the Commission has set them forth but also the policy recommended in their Report the outcome of three years close study of the question both here and in India itself

The Committee therefore note with satisfaction that over a large part of the field of Indian constitutional reform the White Paper and the Report of the Statutory Commission are in general accord and this by itself places that part of the subject in a special position to command the favourable consideration of Parliament These two documents agree that the time has arrived when Constitutions for Provincial self government should be established.

* For convenience it may be noted that this Part I was never considered as the Committee agreed to consider an alternative Part I laid before them by the Lord in the Chair on the 24th July 1934 *vide infra*, pp 470—491

All amendments are to the Draft Report (*vide infra*, paras 1 42B, pp 470—491; and *vide supra*, paras 43 453, pp 64—253) and NOT to the Report as published (Vol I Part I)

A Key is attached (*vide infra*, pp 521—544), showing on which pages of the Proceedings amendments to each paragraph can be found

Even if Provincial Constitutions did not have this combined authority behind them, it is reasonable on the face of it that the process of the development of self government should begin from the bottom. Evidence has been given before us that this is the wish of a great body of orthodox Hindus; indeed, it was urged by witnesses that we ought to begin with the development of self government in the villages. Even if the revival throughout India of the ancient village council may be held to be no longer possible, at any rate there is every reason that we should begin as far down as may be in the administrative scale, that we ought to construct the units before we federate them and that, therefore, our first duty is to develop self government in the Provinces. Moreover, it must never be forgotten that the claim of self government of a Province by the homogeneous people of the Province—of Bengal, for example—by Bengalis or Bombay by Mahrattas—is far stronger than the claim of the many varied races and languages of India to govern India as a whole. It ought, however, at once to be confessed that Provincial Constitutions, even if we go no further, present by themselves many formidable difficulties. To these the Report will return later. It is sufficient to note at this point that such problems as Communal Representation, Indianisation of the Services, the solvency of Provincial finance, the security of Law and Order and the integrity of the Constitution are very complicated and very arduous, and that therefore in our view their solution must be tentative, the time having certainly not yet arrived when Parliament can safely wash its hands of the problems which arise on the Provincial branch of the subject presents.

It follows that the Committee must approach the solution of the further problem connected with the Central Constitution even more cautiously. If the evidence given before the Committee be examined it will be found that no answer has been given to difficulties of great substance which are involved in the proposal of the White Paper for the Central Constitution. With these we proceed to deal subject to this preliminary observation. In the criticisms which follow we must not be taken to underrate the remarkable ability of many Indian Officials and politicians of whom there were striking examples in the Indian Delegation acting with the Joint Committee.

The true character of the Indian problem will never be understood unless the essential difficulties which stand in the way of its solution are borne in mind, that is to say, the demand for federation without the provision of equality of status in the units, the claim of Indians to self government notwithstanding the lack of personal experience and inherited guidance which handicaps them in exercising the higher functions of government, the impossibility of any real contact in direct representation between the people and their representatives, the profound communal differences which split Indian Society into fragments impossible to coalesce, the novelty of Provincial reform and its necessarily tentative character, and the reaction of these upon the Central Government. Unless these fundamental difficulties can be met, a federal system in India must be unworkable. No useful purpose is served by glossing them over, still less in ignoring them. That is an expedient to which British policy is much accustomed when it is presented with difficulties. We often take refuge in it because we assure ourselves that if those difficulties in practice are found not to work they can always be altered. What is exceptional, however, and vital in the present case is that once the lines of the federal constitution are fixed there can be no retreat. It is this formidable feature in the problem which throws such special responsibility on the Joint Select Committee, a feature and a responsibility which are not always appreciated by expert advisers who are prominent on Indian reform. There are in particular many supporters of the policy of the White Paper who deal in the widest generalities. It is to be doubted whether some of them get further than the simplest fallacious syllogism. The system of government in India has hitherto been authoritarian; it is admitted that this old system must be abandoned; the White Paper abandons it; therefore they approve of the White Paper. The Joint Select Committee cannot be content with an argument on these lines. On the contrary, we have been impressed by the general admission that the working of the White Paper policy is highly uncertain. It has been even termed a colossal experiment. The Committee

has considered how far the colossal experiment is likely to overcome the essential difficulties which have been formulated above.

And first the White Paper proposes that the several units of the federation shall not have equal constitutional status.

This arises from the effort to combine in one Parliamentary federation the States in India and the British Indian Provinces. In the words of a member of the Committee "there are two distinct and different forms of government in existence in India, autocratic personal rule in the Indian States and democratic representative government in British India." It may be added that the personal autocrats are sovereign Princes, owning it is true feudal obedience within certain limits to the King-Emperor, but hitherto completely independent of any purely British Indian authority. It is no matter of surprise that it has been found difficult to weld together in one federation of the normal type units so differently constituted. According to the White Paper the British Indian members of the Federal Legislature are to be elected. Those representing the States are to be nominees of the Princes. It may be asked broadly how long it is likely that a combination of units of such diverse conditions can have any stability. Illustrations of the doubts suggested by this question are to be found in the papers laid before the Committee. A dissolution of the Assembly by the Governor General would as regards two-thirds of that body, elected in British India, have the ordinary effect. The other third would merely be re-nominated by the same Princes as before—a very truncated form of dissolution. Yet this is no small matter; the power of dissolution in the hands of the head of the State is essential to the working of constitutional government. On the other hand though an Indian State representative would have fixity of tenure as against the action of the Governor General we are inclined to think that he would have no fixity of tenure at all as against the Prince, but would hold his seat entirely at the Prince's pleasure. Certain vague assurances it is true were suggested to the Committee, that once they were nominted these State representatives would not be disturbed by their rulers during the term of the legislature. But it may be permitted to doubt whether if a representative differed from the Prince he would in fact long continue to hold his seat. These however are difficulties in detail; a constitutional dilemma of fundamental importance from which there appears to be no issue remains to be mentioned.

The Federal Legislature must embrace all parts of Greater India, and in the White Paper must take action upon British Indian questions as well a upon those interesting the federation as a whole. The question therefore at once arises: are the representatives of the Princes to vote upon issues concerning only British India, with which the States have nothing to do? That perhaps might be admitted as a sort of illogical makeshift if the British Indian representatives were to have a corresponding authority as to the States. But this is not to be so. The Princes' representatives are by law to have a right to which the representatives of the Provinces would have no corresponding authority. The autocratic sovereign rulers of the States would not admit for a moment the intervention of British Indian votes to control their domestic concerns. Nevertheless, their representatives are to be legislators who may have if they please a share in the control of the domestic affairs of British India. There is, it is clear, no answer to the dilemma which these provisions of the White Paper present. All that could be urged, and was urged, in evidence was that in practice there might be established a convention under which the representatives of the States would exercise a self-denying ordinance and would refrain from using their right to intervene in British Indian affairs. How that convention is to be defined was left in the evidence completely undetermined. And for a very good reason, that however it is determined it must inevitably break down. It is a commonplace of constitutional government that the legislature by its votes not only enacts laws but appoints and dismisses responsible Governments. The provisions of a particular measure may interest only British India, yet if it is of sufficient importance for its rejection to involve the existence of the Government,

this becomes of direct interest to India as a whole, and it is clear that no convention can prevent the representatives of the Princes from taking part in the critical division. It follows that this anticipated convention would break down in the face of any measure of first class importance upon which the fate of a Government might depend. Neither in theory therefore nor in practice is there any issue from the dilemma

As an illustration, Income Tax is a notable example of the relative disability under which, under the White Paper, British India would stand. Income Tax could be imposed or maintained upon British Indians by the votes of the States, yet except in an emergency the Princes will admit of no Federal authority to impose direct taxation on their own subjects Incidentally it follows that direct taxation in all its forms, with one rather doubtful exception, cannot be used for federal purposes, since the Provinces cannot be asked to bear an unequal burden The fact is that though the Princes under certain conditions are prepared to accept federation they are not willing unreservedly to accept federal authority The authority of the King Emperor they willingly acknowledge, but, broadly speaking as to federal legislation even where they are prepared to accept it they will only carry it out in whatever manner they themselves may consider appropriate The Princes will take no orders from the federal responsible Government The federal Government thus can claim obedience to its decisions in some units the Provinces, in other units the States, it can only do so by consent of their rulers

In considering this subject of the solidarity of the Federation as proposed in the White Paper, it is not out of place to estimate what degree of permanence ought fairly to be attributed to the adhesion to it of the States The right of discretionary secession would obviously be inadmissible Yet can we say it is unreasonable as the evidence on behalf of the Princes claimed, that there should be some such right retained in case of a profound alteration of circumstances Supposing the White Paper Constitution developed hereafter, with the consent say of a passing majority in Parliament towards Dominion status, which is the avowed objective of Sir Tej Bahadur Sapru and his friends what then? Dominion status means a Dominion constitution, which would carry with it the power for India to free herself altogether from Imperial authority Assuredly the Princes cannot be held to be bound to such an evolution of federation against their interests, which are bound up with the maintenance of the principle of unquestioned sovereignty Yet it can scarcely be doubted that if the majority of the Indian delegation were to have its way this is precisely the situation that the Princes may have to face

This question of the right of secession emerged in the Burmese discussion before the Committee and this is therefore an appropriate place to direct the attention of Parliament to the special difficulties which Burma presents

In some ways the case of Burma offers less complication than the case of India But it has a formidable dilemma of its own It is said that Burma is in reality opposed to inclusion in the Indian federation and therefore her delegates asked the Committee for a discretionary right to secede This is clearly inadmissible On such terms the inclusion of Burma in the federation evidently must be barred But the alternative of giving her a White Paper Constitution of her own, as is proposed, in the face of the comparative absence of constitutional and political experience seems also indefensible, not to speak of the economic subordination of Burma to India which forbids genuine separation Yet this is the solution proposed by the supporters of the White Paper

There is a further difficulty in the general relation of the States to the federation disclosed in the White Paper, which though of an interim character is important What is to be done in the interests of the States themselves and in the interests of the balance of political power in the federation during the interim period, when only a certain number of them have signified their willingness to join? This problem still awaits the opinion of the Princes before it can be solved

The second essential difficulty which was mentioned at the beginning of this part of our Report was the lack of personal experience and inherited guidance which limits Indians in exercising the higher functions of government.

It is common ground that without the British Army India could not be defended from foreign aggression. It is equally admitted that in the last resort British troops are necessary to maintain order in India itself The Committee have realised in the course of its enquiry the vital character of British services in protecting Indians not only from external enemies but from disorder amongst themselves. On the civil side Indians under British training have made immense advances in administrative efficiency. Many of them possess great ability and they have shown remarkable adaptability to our training in all the manifold details of western administration. But even here few Indians would contend that their Country could for the present be successfully administered without a large measure of guidance by British officials. Yet as the White Paper stands there is little doubt that the services upon which the vast Indian population depends for their security and welfare will under its provisions suffer serious deterioration. This dependence especially on the side of Defence and Order, appears to us to be inconsistent with genuine self-government. The White Paper itself has regard to this limitation affecting Indians in the higher functions of government, and it provides that the Defence services, together with foreign policy, intimately bound up with these services, are to be reserved to the discretion of the Viceroy alone. But will he be able freely to exercise this discretion? The answer to this question is of deep significance. It must be remembered that the Viceroy in his capacity as Governor-General has to work as it is proposed, with a Responsible Government and to pay his troops out of the same purse which is alone available to the responsible Ministers for all other federal purposes. However absolute may be the terms in which his unfettered access to this purse may be safeguarded it is evident that in practice the legislature and the Ministers responsible to it will have the strongest inducement to bring pressure to bear upon him, pressure very difficult to resist, in order to help their own political objectives at the expense of the interests of the Reserved subjects We feel that such a situation is fraught with discord and will invite friction and inefficiency

This is one of the principal objections to the financial proposals of the White Paper. It does not however stand alone, but it will increase and exacerbate the financial confusion which apart from it may be anticipated. In truth it is admitted that Indian finances at the present moment constitute an insuperable bar to the immediate operation of a federal constitution and indeed make it doubtful whether even the Provincial constitutions can be started forthwith. It has in fact been said by a high authority who is a member of the Committee that the proposed new Constitution will be built on a financial quicksand. It must be remembered that not only does the Indian financial system share the general depression but that the proposed changes are themselves expensive and the expectation of social reform, always costly, which have been excited must intensify the adverse position. This is not denied The alternative to which these admissions have driven the White Paper, namely a Federal Constitution with delayed action, that is to say passed in all its details but hung up, presents difficulties of its own of a formidable character. No one can predict how long the financial stress will continue, but until the conditions which the Indian problem may present at the end of the period in question are known it would seem to be most unwise to prejudice the future action of Parliament in circumstances yet undisclosed.

But direct financial difficulties are not the only fiscal anxieties in the path of federation. There is one other element in the question of Indian self-government appertaining to the fiscal policy of the future but concerning this Country as well as India, namely, the possibility of Indian discrimination against the commercial interests of the United Kingdom. This of course does not bear upon the question whether Indians are unable properly to exercise any functions of government, though it must not be left out of sight

in considering the fiscal provisions of the Constitution Act. In this place therefore we would content ourselves with saying parenthetically that in our view it is impossible under the proposals made to us to provide against administrative discrimination and that if a Central Constitution on the lines of the White Paper were to be adopted we should have to rely for fair treatment in these matters upon the good sense and good feeling of the Federal Government.

The third essential difficulty belongs to the vast size of India and its population and the attempt to represent it in one federal legislature.

The White Paper proposes that British India should be represented in the Federal Legislative Assembly by a system of direct election. The papers laid before us show that some of the most important representatives of the Princes in the delegation were dissatisfied with the method in which the central legislative bodies are proposed to be constituted. It is, however, not necessary to go beyond our own experience to convince us that it is impossible with direct election, in the condition which prevail in India, for the members of the legislature to be in touch with their constituents or able to escape from the acutest form of machine-made electioneering. That would be true as the proposed franchise stands, but nothing is more certain in constitutional development than that the franchise goes through an inevitable process of extension. The prospect in British India with direct election by what might ultimately be some 100 million electors voting in constituencies in one case as big as Great Britain, only requires to be stated in order to be dismissed. In place therefore of the proposals of the White Paper various systems of indirect election have been submitted to the Committee, notably election of the Central Assembly by members of the Provincial Assemblies.

But this alternative is by no means without objection We do not escape the fourth essential difficulty in the solution of the Indian Constitutional problem. Whether the system of election is direct or indirect the profound communal schism makes itself felt.

Some members of the Committee had hoped that by availing ourselves of the system of proportional representation Hindus and Moslems might arrive at a fair representation of their respective communities, but we have been assured that any such method as a solution would never be admitted by Indian opinion. Whether the White Paper with its direct election is to be accepted or we adopt indirect election in its place in any case we must fall back upon the principle of the Communal Award, which is in truth inconsistent with genuine self-government. The fact is that religious circumstances in India admittedly are such that a free representative system is unacceptable. In order that a certain proportion of Moslems should be returned to the Assembly, electors are not to be allowed to vote except for candidates of their own creed. This is rigidly true of Moslem electors and practically true of Hindus, although it is by the wish of the Moslems and not of the Hindus that this abnormal system appears to be necessary. Under the White Paper with its direct election to the Central Legislature, in order to achieve this end an elaborate system of separate creed registers and of differing constituencies is proposed. Some of these complications are escaped if indirect election is substituted in place of the other. But the intermediate electorates it seems must still be separated into two creed parties, Moslems and non-Moslems, on the same principle. The consequence of this creed arrangement is obvious. There will never be an inducement to a member to study the interests of any electors outside his own creed. It follows that though indirect election does get rid of many of the fatal objections which direct election presents, it does not obviate the greatest of all, namely, the perpetuation of a communal division in the political sphere.

Indirect election has beyond this certain minor objections peculiar to itself. It prejudices the effective power of dissolution in the hands of the Governor-General: not indeed to the same extent as in the case of the States, to which attention has already been called, but still substantially because

unless since the last central election there have been changes in the complexion of the Provincial Assemblies a dissolution is not likely to produce any change in the balance of opinion in the Central Assembly. Even if the strength of parties in the Provincial Assemblies had been modified since the last Central Election the rigidity of the communal and political obligations under which the Provincial chambers would be bound must always tend to make the result a foregone conclusion.

In the face of these essential difficulties—the difference of status in the units; the want of experience and tradition amongst Indians as to certain functions of government; the difficulties of representation in the Central Assembly; and the communal differences—the White Paper provides a series of safeguards in the shape of special responsibilities vested in the Governor-General to be exercised in his own discretion; for preventing grave menace to peace and tranquillity; for safeguarding financial stability; for safeguarding the legitimate interests of minorities; for protecting the rights of the Indian States, and for certain other purposes to be mentioned hereafter. That they should be admitted at all as being required is by itself a grave criticism of a policy which is designed to give self-government, but that these precautions nevertheless correspond to a real necessity in India cannot be denied. The question is, will they be effective and do the politically minded Indians intend them to be effective? In answer to the second question, there can be no doubt, if the words used by the Indian delegation are to be accepted, that they treat all these safeguards as temporary expedients to be swept away within a short period, or at any rate to fall into desuetude. We, however, find it difficult to believe that, having regard to the communal situation revealed in the electoral proposals just described, and to the terrorism of which abundant evidence was laid before us, and to the obvious dangers to the interest of minorities, and to the clashing of the respective rights of the States and the Provinces, there will not be full occasion for the protection aimed at by these safeguards. And the language of Indian delegates which has been cited leads to the conclusion not that the safeguards will not be required but that every effort will be made that they shall not be used. The capital importance in particular of the question of law and order appeared abundantly in the evidence and in the papers laid before the Committee. We deal in another part of our Report with this question in the Provincial sphere. We indicate in that place that the anti-terrorist organisation ought to be directly under the Governor or the Governor-General and the police themselves directly under the Governor where he considers it expedient. But the special responsibility of the Governor-General is very important and we have been convinced that he must be really free to exercise his discretion in preventing any grave menace to the peace and tranquillity of these poor people who look to us for protection. Even assuming that it is the intention to make the safeguards effective, with the best will in the world the operation of them will be hampered. As has already been suggested in the case of the reserved services, in respect of all of them their exercise will be subject to unceasing criticism in the legislature and to pressure by the responsible government: for it must be remembered that their whole point is that they should be operative, if at all, against the wishes of the legislature and of the responsible government: otherwise there would be no occasion for them. The mischiefs against which they are directed ought to be prevented in the normal way by the responsible Ministers themselves in their own discretion. It is only because in these matters the responsible Government cannot be trusted that these provisions are inserted in the White Paper. We regard with profound misgiving the prospect of the Governor-General being called upon to use his special powers against the will of his own Ministers. Their natural constitutional course in such circumstances would be to resign. If so, no other Ministers presumably could command a majority and a deadlock must ensue. With this eventuality in front of him the pressure may well be too great for the Governor-General to resist.

A minor difficulty is that no provision is contained in the White Paper to enable the Governor-General to have that information which is necessary for him in order that he should know when the exercise of this special responsibility is called for. We believe that certain amendments might be introduced to mitigate the difficulty and to increase this opportunity, but at the best we doubt whether this object can be satisfactorily achieved.

There is yet a fifth and last essential difficulty stated at the beginning of this part of our Report which has not yet been dealt with--the tentative character of Provincial reform and its bearing upon the Constitution at the Centre.

What power will the federal government have to guide the Provinces, or in the last resort to enforce its decisions upon the Provinces? In the first place there is vagueness in the proposals submitted to us. It must be understood that between the legislative field under the authority of the Centre and the legislative field under the authority of the Provinces there is to be an intermediate field in which the two have concurrent jurisdiction. It has been argued on high authority that the Federal Government neither could nor ought to enforce upon the Provinces the execution of federal legislation in the concurrent field. We are not satisfied that this looseness of administrative authority will make for good government in the future. But it seems quite clear that the contention proves too much for if the argument is sound that federal legislation cannot be enforced in the concurrent field, there will be an equal federal impotence in the federal field as well. In the case of the States, as has been already shown, the federal impotence is even greater because whereas in the Provinces acceptance of decisions in the federal field is assumed in the case of the States the federal government as distinguished from the Viceroy has no constitutional right to enforce its authority. It is true that the power over the States of paramountcy resides in the Viceroy and no doubt the federal Ministers will consider themselves entitled to put pressure upon him to use this power for enforcing their wishes. That pressure may possibly be effective, though this is a procedure that the Princes certainly do not contemplate. The provisions however of the White Paper have in these respects never been sufficiently worked out. Similarly the whole problem of the relation of the new constitution to the general law has not been solved and possibly cannot be solved. There is not merely ambiguity in the treatment of repugnancy between Provincial and Federal legislation, but also it seems between either and the legislation of Parliament itself. Anyhow, as between the Provinces and the Federation something more precise than the provisions of the White Paper are evidently required, though it may be gathered that precision would be very unwelcome to many members of the Indian delegation. In the meantime we may shrink from the vast sea of litigation which is opened up by the consideration of these ambiguities. They illustrate the essential difficulty which lies in an effort to create new constitutions for the units and a new constitution for the federation at the same time.

We must however not be understood to suggest that the Central Government would be powerless, but that it would be powerless in guiding aright the new Provincial administrations. Even if the vagueness of the White Paper were eliminated the federal responsible Government will neither be experienced nor disinterested. It will probably be an uninstructed focus of faction and intrigue. Yet in the interests of the Provinces the wise guidance of some central authority is certainly required. We repeat that we do not think the Central Government in the White Paper would be powerless. We are aware that there is in some minds a tendency to pass lightly over the relation of the Centre and the Provinces on the alleged ground of the relative unimportance of the Central as compared to the Provincial Constitutions. It is said that the scope of the Centre is so restricted that even if its conduct is inadequate or unsatisfactory it could in point of fact do very little harm. We believe this to be a total mistake. Appendix VI which prescribes the different categories of legislation for the Centre and for the Provinces certainly restricts-

the former, but once they are established the central legislature and government, like all other political organisations, will try to develop their authority. No doubt the Provinces in their turn with their constitutions to develop will obstruct the central power where it conflicts with their own, but there will be many occasions in which the two will be combined against the British authority, and the central legislature with its government responsible to it will have, as has been shown in these pages, abundant opportunities for pressure on the Governor General which can be made to subserve the aspirations of the Provinces as well as their own. But they will have no power over the Provinces and no disinterested experience to be their guide, and it is clear that the guidance and ultimate control of some Central authority is a necessary element in reform especially in its early stages. The best chance, perhaps the only chance, for the successful issue from Provincial difficulties will lie in the strength and goodwill of the Centre. Though we are prepared to recommend a far-reaching experiment in Provincial constitutional development upon the lines of the White Paper, we are not insensible to the immense difficulties which will lie in its path; indeed, it is evident that many of the risks to which we have called attention in the case of the Centre will apply to the Provinces as well. But there is one fundamental difference between the two cases. If experience shows that responsible government in the Provinces should be differently constituted, that the proposed safeguards have been misconceived or are useless, it would be possible for Parliament, either using the authority of the Central power, or directly by its own action, to make such changes as in its wisdom it may see are required. But once the Central Legislature is established with its responsible Government upon the lines of the White Paper, short of a catastrophe retreat will be impossible. This Country may watch with dismay a growing misgovernment of the vast masses of the Indian population, and the failure of all the precautions we have taken, and yet may be faced with the practical impossibility by any intervention of its own of making any change. In different parts of India Hindus may oppress Moslems or Moslems Hindus and nothing can be done except at the instance of the responsible Government at Delhi. It may be found that the provisions for the representation of women are wholly inadequate or unwise, as most women's organisations in this Country and in India believe them to be yet if the oriental prejudice of the Central legislature is unconvinced the British Parliament with all its supposed supreme authority will in fact be powerless.

The essential difficulties have been severally dealt with in this Report. The difference of status of the units; the limitation of experience and tradition under which Indians at present stand in exercising the higher functions of government; the impracticability of representative institutions of the White Paper type for the vast sub-Continent of India; the profound communal differences into which India is split up; the necessarily tentative character of the proposed Provincial reforms and its bearing on the Central Constitution. It has been shown that in respect of none of these do the White Paper proposals for the constitution of the Central Government provide any adequate solution or, short of a catastrophe, show any means of retreat in case of failure. Incidentally, we have pointed out the prohibitive position of Indian finance. The Committee therefore must view with grave concern an acceptance of the proposals of the White Paper on this part of the subject.

If, then, these cannot be accepted and the Provincial constitutions as proposed alone are proceeded with, subject of course to certain modifications following on the discussions in the Committee, on what lines in our judgment should the Central Constitution in India continue for the present? That is a question to which an answer is obviously required.

Whilst the federal proposals as suggested in the White Paper must, we think, be laid aside, the federal objective need by no means be abandoned. On the contrary, we would suggest that in this regard Parliament ought to go as far as the recommendations of the Statutory Commission but no further.

that is to say as far as the creation of a Greater Indian Council representing the several units of the States and of British India Parliament may be again reminded as was done in this Report of the great authority with which the Statutory Commission spoke in its celebrated findings There is no question that these were against a Central Constitution to be established forthwith on the lines of the White Paper

(Page 202) Federations come about only when the units to be federated are ready for the process and we are far from supposing that the federation of Greater India can be artificially hastened or that when it comes it will spring in to being at a bound

And again

(Page 146) ' we do not think that the evolution of the Constitution at the Centre will necessarily follow this path (viz Parliamentary institutions) It appears to us that there is a serious danger of development at the Centre proceeding on wrong lines if the assumption is made that the only form of responsible Government which can ultimately emerge is one which closely imitates the British Parliamentary system It is a feature of that system that the Government is liable to be brought to an end at any moment by the vote of the legislature

In other words It must not be assumed that India must have a Central Responsible Government on the lines proposed And again

(Page 146) It seems to us most unlikely that if Britain had been the size of India if communal and religious divisions so largely governed its politics, and if minorities had had as little confidence in the rule of others as they have in India popular Government in Britain would have taken this form "

These quotations to submitted amply confirm the criticisms in this part of our Report Nevertheless it must be admitted that the establishment of Provincial Responsible Governments by themselves would not be satisfactory It would be useless to shut our eyes to the development of the question of Indian reform in recent years and we agree with others in looking with hope to the spirit of federation which with the provisional assent of the Princes has become so prominent Federal development was of course explicitly foreshadowed in the Report of the Statutory Commission But the Commissioners were of opinion that the time has not arrived when it is possible to decide upon what lines a Federal Constitution ought to be drawn Our analysis of the difficulties presented by the federal proposals in the White Paper as will have been seen fully agrees with this conclusion Yet we should be loth to abandon federation as the objective Let us by all means go as far as we can in that direction In this connection we have been impressed not only by the general attitude of the Princes on this question but in particular by what we conceive to be a just complaint against the treatment which they have often received from the Government of India We are satisfied that questions in which the States have a substantial interest have often been settled by the Government of India without consulting or even informing the Princes of their intention It was no doubt such considerations as these that led the Statutory Commission to make their recommendation in paragraph 237 of Volume II for a Greater India Council

(Page 203) " We wish to suggest that steps should be taken now to devise the creation and setting up of a standing consultative body containing representatives both from British India and the Indian States, with powers of discussion and of reaching and recording deliberative results on topics falling within the list of matters of common concern "

In other words the proposal is that the Governments of every Province and of every State should be represented in a Council, whose advice and assistance the Viceroy should seek on every issue which is of interest to India as a whole We desire most strongly to endorse this recommendation.

It will be seen at once how long a step this constitutes in the direction of federation. But this federal instrument does not involve the unanswerable difficulties which we have found in the proposals of the White Paper. There would be no question of unequal powers as between the States and the Provinces. There would be no uncertainty as to the character and position of the central Government in relation to the Princes. Subject always to the Treaties the attributes and operation of paramountcy are established and well understood. Unlike novel experiments it has the stability of tradition, and it would be through paramountcy and the central Government in the person of the Viceroy would continue to exercise his authority in Greater India. There would be no pathless morass to be confronted of direct or indirect election to the central Assembly. There would be no anxiety about discrimination, no dilemma about Burma. There would be no extra expenditure for offices and officials in Delhi. In a word there would be no reason to delay the consummation of the federal principle forthwith. Finally the Central Constitution would be on simple lines and simple lines are essential in new development.

And yet the new Council would have a great position because it would have far-reaching influence. It is true that this influence would only be advisory and it is indeed this quality which obviates the difficulties just recited. It would be advisory but it would be none the less weighty; indeed such an advisory instrument is on the direct road of constitutional development as we English have understood and followed it. Everyone of our institutions has passed through that stage. Many of them are advisory still and even the greatest of them carry the ancient traces upon their formularies. The King's Ministers are still termed his advisers: even the archaic formula in which our laws are enacted has no hint of initiative power except in the Sovereign, and advice still appears in the enacting words as having embodied historically the essential function of the greatest Parliament in the world. This feature of British constitutional development is not an accident: it is because under the form of advice and under that form alone the elasticity can be found which is required for the growth of representative institutions. Arbitrary rules bounded by rigid conditions can never be developed into a living instrument of government as the growth is developed of an advisory body representing public opinion. Under an advisory method there is no reason to define the rights of an Assembly or the special responsibilities of a Governor General. The field of discussion in the Council need never be circumscribed, whilst on the other hand the Governor General need never fear the coercion of a Ministerial deadlock. For the power of an Advisory Council would depend upon the weight of influence in whose name it speaks, and the responsibilities of a Governor General would be limited only by his sense of public duty.

The Statutory Commission proceed in their Report to elaborate the functions of this Council. They are to have a general scope dealing even with the delicate subject of finance:

> "The Council would provide an opportunity for taking the Indian States into consultation about changes in the tariff"

and indeed about every kind of fiscal legislation. Stretching also beyond specific issues to general questions of policy:

> "It may well be however that an even more important part of the work of the Council would be concerned with questions of general policy falling within the schedule of matters of common concern."

The views of the Council are to have access as of right to the Legislature and to the Princes:

> "The views formed by the Council would be recorded in a Report, which would include the record of any dissenting minority, and this Report should be furnished to the Central Legislature as well as to the Chamber of Princes".

and further

> "We think that some machinery might be devised by which, at any rate, in important cases, these views might be expounded to the Central Legislature and to the Chamber of Princes."

So that, as has been indicated above the Princes would be fully consulted on all matters of common concern, which would embrace specific proposals as well as questions of general policy; and thus any legitimate grievance of the past would be fully met.

Such is the proposal towards federation of the Statutory Commission. Further than this we do not think it would be wise for the present to proceed. With the addition then of this Greater-India Council in the Central Constitution the existing Legislature and Executive, somewhat as provided in Proposal 202 of the White Paper, should for the *present* remain, but of course with diminished scope. In the first place the Central Legislature would be deprived of those functions which are to be transferred to the Provinces. In the second place a further limitation would be wise (in this respect again on the same principle as contained in the scheme of the White Paper), namely it should have no authority on the reserved subjects of Defence or Foreign Policy as therein defined. Besides these there is one other consideration which has become apparent in the discussions of the Committee and which if the present Central Constitution in any form is to continue requires attention, namely, the weakness of the Central Executive. This has proved to be serious blemish as things stand and will be increasingly mischievous in the face of the inexperienced autonomy of the Provinces. It will be remembered how in our deliberations the Indian delegates criticised the proposed provision by which the Governor or the Governor-General could only pass an Act on his own authority of a permanent character after incurring all the friction of a difference with the Legislature. This criticism seems directly in point as against the existing system of certification. It would conform at once both to strength and smoothness of operation if the prerogative power of the Governor-General took the simple shape of an ordinance, to be issued either with or without a preliminary discussion in the Legislature, and either as a temporary or permanent enactment as the circumstances may require.

Arising partly from these changes there are one or two other modifications which would be required. It must be admitted that in the circumstances contemplated there might be some danger lest the Executive might to a certain extent lose touch with the legislature and with the public opinion which it represents. To minimise this danger the existing disablement of members of the Assembly from forming part of the Executive Council might be removed. The Governor-General should himself nominate his Council and should have an unrestricted field to nominate his Council either from within or without the Legislature as he should find best for the public service.

It will be noticed that in this Central Constitution as here proposed, whether in respect of the Greater India Council or the Executive Council or the Central Legislature, it is intended to do without the mass of hampering restrictions which form so large a feature in the White Paper. There are indeed hardly any restrictions which are needed to limit the discussion in the Greater India Council. The same is generally true of the Central Legislature as it will continue to exist, except in respect of those mentioned in the present Government of India Act. That this simplicity should become possible is in itself a great desideratum. It is true that the restriction method with all its complication will still be tried out in the Provinces. There would seem to be no other course open to us. But in that case there will be, as has already been said, comparatively little difficulty in modifying it hereafter as experience may prescribe. The case of the Centre is much more critical and the consequence of a mistake much more formidable. The real and reasonable safeguard there ought to be, not in prohibiting discussion or in prescribing complicated and arbitrary limitations of authority (which are

inconsistent with any genuine system whether of self-government or otherwise) but in full freedom for the representative bodies either to advise or to enact as the case may be, conditioned only by an unfettered power of the Governor-General, negatively by veto or positively by ordinance, to secure what the public interest requires.

In our view, then, the safeguards ought if possible to be simple, but whatever view is taken of simplicity in this connection, at any rate when we are establishing a Central form of Government from which there can be no retreat, there must be an assurance of solidarity between the Governor-General and his Ministers. The device by which he is conceived as exercising his prerogative powers in the teeth of his own Ministers is, we should think, unprecedented and must surely be accepted with the greatest reluctance. We are not prepared to accept it. In the present stage, therefore, of Indian development the Executive Ministers in the Centre should not be subject to the control of the Legislature. They should no doubt do their utmost to carry with them the support of public opinion as represented there. They may or may not be themselves members of the Legislature, but as Ministers they should be responsible only to the Head of the State.

In submitting these recommendations we regret that they are not in conformity with the views of the Indian delegation for whose ability and position we desire to express the greatest respect. But members of the Imperial Parliament have a unique experience in making and working Constitutions and we conceive that we have an overwhelming responsibility to the millions of our fellow subjects in India, wholly uninstructed in these matters, to protect them from the risk of a profound constitutional mistake.")

Objected to.

On Question :—

Contents (5)	Not Contents (21)
Marquess of Salisbury.	Lord Archbishop of Canterbury.
Lord Middleton.	Marquess of Zetland.
Lord Rankeillour.	Marquess of Linlithgow.
Sir Reginald Craddock.	Marquess of Reading.
Sir Joseph Nall.	Earl of Lytton.
	Earl Peel
	Viscount Halifax.
	Lord Ker (M. Lothian).
	Lord Hardinge of Penshurst.
	Lord Hutchison of Montrose.
	Mr. Attlee.
	Mr. Butler.
	Major Cadogan.
	Mr. Cocks.
	Mr. Davidson.
	Mr. Foot.
	Sir Samuel Hoare.
	Mr. Morgan Jones.
	Lord Eustace Percy.
	Sir John Wardlaw-Milne.
	Earl Winterton.

The said amendment is disagreed to.

Paragraphs 44 and 45 are again read.

The further consideration of paragraphs 44 and 45 is postponed.

Ordered, that the Committee be adjourned till to-morrow at half-past Two o'clock.

Die Mercurii 20° Junii 1934

Present :

Lord Archbishop of Canterbury.	Mr. Attlee.
Marquess of Salisbury.	Mr. Butler.
Marquess of Zetland.	Major Cadogan.
Marquess of Linlithgow.	Mr. Cocks.
Marquess of Reading.	Sir Reginald Craddock.
Earl of Lytton	Mr. Davidson.
Viscount Halifax.	Mr. Foot.
Lord Middleton.	Mr. Morgan Jones.
Lord Ker (M. Lothian)	Sir Joseph Nall.
Lord Hardinge of Penshurst.	Lord Eustace Percy.
Lord Snell.	Sir John Wardlaw-Milne.
Lord Rankeillour.	Earl Winterton.

The Marquess of Linlithgow in the Chair.

The Order of Adjournment is read.
The Proceedings of Yesterday are read.
Paragraphs 16 to 159 are again read and postponed.
Paragraphs 160 to 227 are again read.
It is moved by the Earl of Lytton to leave out paragraphs 160 to 227 and to insert the following new paragraphs: –

III. RESPONSIBILITY AT THE CENTRE

(' Having accepted the view expressed in the White Paper that it is desirable to establish a Federal Government at the centre for the whole of India, we have now to consider what form that Government should take. For reasons which we shall explain, we have not felt able to accept the proposals of the White Paper as regards the Federal Government, but before stating the alternative proposals which we recommend it may be useful to summarise briefly :

(1) The present constitution of the Central Government.

(2) The proposals of the Statutory Commission for its modification.

(3) The proposals of the White Paper for the composition of the Federal Government.

1. *The Present Central Government*

The present executive authority in India, both in civil and in military matters, is the Governor-General in Council. The members of the Governor-General's Executive Council, of whom not less than three must be persons who have been for at least ten years in the service of the Crown in India, are appointed by the Crown, and their appointments are in practice for a term of five years, though there is no statutory limit. The Commander-in-Chief is ordinarily, though not necessarily, a member of the Council, and in that case has rank and precedence next after the Governor-General himself. The present Council consists of six members (of whom three are Indians), in addition to the Governor-General and the Commander-in-Chief. The Governor-General presides at meetings of his Council, and the decision of the majority of those present prevails, though the Governor-General has a casting vote in the event of an equality of votes, and may, if any measure is proposed which in his judgment affects the safety, tranquillity or interests of British India, or any part thereof, overrule the Council. The three members of the Council

All amendments are to the Draft Report (*vide infra*, paras. 1—123, pp. 470—491 ; and *vide supra*, paras. 43—153, pp. 64—253) and NOT to the Report as published. (Vol. I, Part I.)
A Key is attached (*vide infra*, pp. 521—544), showing on which pages of the Proceedings amendments to each paragraph can be found.

who are required to have been in the service of the Crown in India are invariably selected from the Indian Civil Service, the post of Law Member has for some years past been filled by an Indian lawyer, and that of Finance Member by a person with financial experience from the United Kingdom. An official is not qualified for election as a member of either Chamber of the Central Legislature, and if any non official member of either Chamber accepts office under the Crown in India his seat is vacated, but every member of the Governor General's Council becomes an *ex officio* member of one of the Chambers and has the right of attending and addressing the other, though he cannot be a member of both. The Executive Government is not responsible to the Indian Legislature but only to the Secretary of State and thus to Parliament, and the Governor General in Council, if satisfied that any demand for supply which has been refused by the Legislative Assembly is essential to the discharge of his responsibilities, can act as if it had been assented to, notwithstanding the refusal of the demand or any reduction in its amount by the Legislative Assembly. The Governor General himself has also power in case of emergency to authorise such expenditure as may in his opinion be necessary for the safety or tranquillity of British India or any part thereof. These provisions secure the complete independence of the Executive though the Legislature can and does exercise an influence upon policy in a marked and increasing degree.

The present Central Legislature in India consists of two Chambers. The Upper Chamber, called the Council of State, consists of 60 members of whom 34 are elected on a high property qualification and 26 are nominated. The President is appointed by the Governor General for a period of five years, which is the duration of the Council.

The Lower Chamber, called the Legislative Assembly, consists of 145 members of whom 105 are elected from Provincial constituencies on the same franchise as for the Provincial Legislative Councils but with rather higher electoral qualifications, 26 are official members, and 14 are nominated non officials including one representative of the Depressed Classes, the Indian Christians, the Anglo Indian community, the North West Frontier Province, the Associated Chambers of Commerce and Labour interests, respectively. The Legislative Assembly elects its own President and its duration is limited to three years.

2 *The Proposals of the Statutory Commission*

The Statutory Commission proposed the continuation of the Legislative Assembly (with the title of "Federal Assembly") and the Council of State, as two Chambers of the Central Legislature but they recommended a system of indirect election for the membership of each of these Chambers. The members of the former were to be elected by the method of proportional representation by the Provincial Councils, those of the latter by the Provincial Second Chambers where they existed or failing this by the Provincial Councils. The Central Executive, according to their Report, would continue to be the Governor-General in Council, the only change being that the Executive Councillors would in future be selected by the Governor General. They further recommended that for the purpose of promoting closer co operation between British India and the Indian States in matters of common concern for India as a whole, a Council for Greater India should be established containing representatives both of the States and of British India, to deliberate and advise upon matters scheduled as 'of common concern'.

For reasons which are set forth in their Report, the Statutory Commission were unable to explore more fully the subject of Federation and the appointment of an Advisory Council for the whole of India was as much as they felt able to recommend at that time. Since then, however, the idea which they were first to suggest has been further examined and discussed at the three Round Table Conferences, and we ourselves have heard a large body of evidence on the proposals of the White Paper. We consider, therefore, that

it is now possible to go further than the Statutory Commission in recommending the establishment of a central Executive and Legislature, which shall be responsible for carrying out the functions of a Federal Government, but we have had in mind that the units which form the Federation will differ fundamentally in character and we have sought to establish a Government which would recognise and be compatible with the continuance of their respective characteristics. We consider it essential that the Legislature which represents the Constituent units should be fully responsible and indeed the Princes have made it clear that they would only consent to join a Federal body which had this character. For this reason we are not prepared to recommend the establishment of a merely Advisory Council such as was contemplated by the Statutory Commission.

3. *The White Paper Proposals*

The White Paper proposes that as in the case of the Governor in a Province, the executive power and authority of the Federation shall vest in the Governor-General as the representative of the King. This power and authority will be derived from the Constitution Act itself but the Governor-General will also exercise such prerogative powers of the Crown (not being powers inconsistent with the Act) as His Majesty may be pleased to delegate to him. The former is to include the supreme command of the military, naval and air forces in India but it is proposed that power should be reserved to His Majesty to appoint a Commander-in-Chief to exercise in relation to those forces such powers and functions as may be assigned to him. In relation to a State which is a member of the Federation the executive authority will only extend to such matters as the Ruler has accepted as falling within the federal sphere by his Instrument of Accession. It is then proposed that there shall be a Council of Ministers chosen and summoned by the Governor-General and holding office during his pleasure to aid and advise him in the exercise of the powers conferred on him by the Constitution Act other than his powers relating to (1) defence, external affairs and ecclesiastical affairs (2) the administration of British Baluchistan, and (3) matters left by the Act to the Governor-General's discretion. In respect of certain specified matters the Governor-General like the Governor of a Province is declared to have a special responsibility and his Instrument of Instructions will direct him to be guided by the advice of his Ministers in the sphere in which they have the constitutional right to tender it unless in his opinion one of his special responsibilities is involved, in which case he will be at liberty to act in such manner as he judges requisite for the fulfilment of that special responsibility, even though this may be contrary to the advice which his Ministers have tendered.

The White Paper proposes that the Federal Legislature shall consist of the King, represented by the Governor-General and two Chambers, to be styled the Council of State and the House of Assembly. The Council of State is to consist of not more than 260 members of whom 150 will be representatives of British India not more than 100 will be appointed by the Rulers of States who accede to the Federation and not more than 10 will be nominated by the Governor-General in his discretion. The Governor-General's Counsellors, who will be *ex officio* members of both Chambers for all purposes except the right of voting, are not included in the above figures, and it is provided that the members to be nominated by the Governor-General shall not be officials. The House of Assembly will consist of not more than 375 members, of whom 250 will be representatives of British India, and not more than 125 will be appointed by the Rulers of States who have acceded to the Federation.

The representatives of British India in the Council of State will to the number of 136 be elected by the members of the Provincial Legislatures, by the method of the single transferable vote. Indian Christian, Anglo-Indian and European members of the Provincial Legislatures will not be entitled to vote for these representatives, but 10 non provincial communal seats will be reserved for them (7 for Europeans, 2 for Indian Christians,

and 1 for Anglo-Indians), these seats being filled by three electoral colleges, consisting respectively of the European, Indian Christian and Anglo-Indian members of the Provincial Legislatures, and voting for the European and Indian Christian seats being by the method of the single transferable vote. Coorg Ajmer, Delhi, and Baluchistan will each have one representative. Members of the Coorg Legislature will elect to the Coorg seat, but special provision is to be made in the case of the other three.

The representatives of British India in House of Assembly will be elected by direct election in provincial constituencies except in the case of three of the seats reserved for Commerce and Industry, and one of the Labour seats, where the constituencies will be non provincial. Election to the seat allotted to the Muhammadan, Sikh, Indian Christian, Anglo-Indian and European constituencies will be by voters voting in separate communal electorates; and all qualified voters who are not voters in one of these constituencies will be entitled to vote in a general constituency. Election to the seats reserved for the Depressed Classes out of the general seats, will be in accordance with the arrangements embodied in the Poona Pact which we have described elsewhere. Election to the woman's seat in each of the Provinces to which such a seat is allocated will be by members of the Provincial Legislature voting by the method of single transferable vote, the special seats assigned to Commerce and Industry will be filled by election by Chambers of Commerce and other similar associations, and the special seats assigned to landowners will be filled by election in special landholders constituencies.

It will be seen that these proposals go much further in the direction of establishing a responsible Government at the centre than those of the Statutory Commission. In our opinion however the proposals of the White Paper have two serious defects which have led us to reject them. In the first place the responsibility of the Federal Ministers will be restricted to certain departments whilst for other departments the responsibility will be vested in the Governor General. The effect of these proposals would be to reproduce at the centre a form of Dyarchy which experience has shown to be one of the chief defects of the Montagu Chelmsford reform and we endorse everything which was urged in their Report by the Statutory Commission against such a course. In our opinion, to adopt the proposals of the White Paper would be to ignore the lessons of the past and to invite at the centre, where the consequences would be much more serious the same friction and deadlocks which Dyarchy has produced in the Provinces.

The second objection which we feel to the proposals of the White Paper is that they do not sufficiently take into account the divergent character of the units which it is sought to federate, and by adopting democratic basis for the Federal Legislature they necessarily invite future agitation to change the character of the Government in the Indian States.

At the present time there are two systems of Government in India—the personal rule of the Indian Princes, which is indigenous and traditional and the democratic representative institutions which are in process of being established in the Provinces of British India, as the consequence of British rule. This latter form of Government is still on its trial and though it is the avowed object of Parliament to make such changes in the Constitution as will ensure the ultimate success of this system in the British Indian provinces, it cannot be said that this object has yet been accomplished. The proposals of the White Paper, and the recommendations we have ourselves made for the establishment of autonomous self-governing Provinces, will we hope facilitate the successful development of democratic institutions in those Provinces. But we are strongly of opinion that any Federal Government which is established in India in present conditions should hold the balance evenly between the two existing systems of Government, and should be capable of being adopted in the future as experience may prove to be desirable.

The facts which appear to us to be unquestionable in the Indian situation to day are

(1) That both in the Indian States and in the Provinces of British India there are men fully qualified to discharge executive and legislative responsibilities and that it is desirable without further delay to entrust such responsibilities to those who are qualified to exercise them

(2) That the low standard of education of the mass of the people, and the presence of acute communal differences make the establishment of any truly representative system of Government immensely difficult

In our view the chief problem which confronts Parliament at this moment is how to secure the transfer of responsibility to those qualified to exercise it without endangering the safety of the immense interests of which the Government of India is the trustee by premature experiments in a system of representation for which India is at present unfitted The White Paper makes the mistake of transferring only a qualified responsibility to men who have been selected by a system of representation which bristles with difficulties and which no one can regard as wholly satisfactory In an attempt to approximate to the Westminster model the wholly different conditions of India, it proposes to establish a Constitution so complicated that even men of long Parliamentary experience would find it difficult to work and which, owing to the divided responsibility which is inherent in its proposals is more likely to provide discord than establish harmony In our opinion a far simpler and more workable solution can be found and one which is better suited to existing condition

Our own Proposals

Bearing these considerations in mind we may now proceed to formulate the alternative proposals we are disposed to recommend

We will consider first the Federal Legislature All the difficulties with which we have been confronted throughout our enquiry on such subjects as the composition of the two Chambers proposed in the White Paper the merits of direct or indirect election the basis of the franchise, the representation of special interests the communal award etc arise from the attempt to place upon the general population of British India the responsibility of electing representatives in the Federal Legislature If we were attempting to federate the self governing Provinces alone this would of course be necessary Such was the problem which confronted the framers of the Government of India Act in 1919 The Central Legislature then created dealt with British India alone and it was inevitable that having introduced representative legislatures in the Provinces an attempt should be made to create a representative Legislature at the centre Again if the Governments of the Indian States had a representative character in federating them with the British Indian Provinces it would be necessary to give the people of those States a voice in the election of the Federal Parliament But that is not the problem which now confronts us We have to federate the Governments of the British Indian Provinces with those of the Indian States There is no question to-day of giving representation to the peoples of the Indian States and until that is done there is no necessity to give direct representation to the peoples of British India

We therefore propose that at this stage the Federal Legislature should consist of representatives of the various confederate Governments For this purpose two Chambers are not required, and there would be no object in creating two Chambers to represent the same authorities We propose that the Federal Legislature should consist of one Chamber composed of the nominees of the various Governments The Princes who join the Federation would appoint the representatives of their States and the Governor acting with his Ministers would appoint the representatives of each British Province. The total number of the Legislative Chamber, and the proportion to be assigned to the States on the one hand, and the Provinces on the other, and

within those categories the numbers to be assigned to each Province are shown in an Appendix. These numbers may require further consideration if the principle we have advocated is accepted. We have tentatively assigned one-third of the total House to the States and two thirds to the Provinces The proportion assigned to each Province follows as closely as possible the lines proposed in the White Paper

The simplicity of such a procedure is obvious and needs no elaboration It would avoid all the difficulties created by the White Paper a consideration of which has occupied so much of our time The objections which will be raised to it are equally obvious Those who can only think of Indian constitutional development in terms of British experience, will, of course, protest that such a procedure would involve a departure from the principle which has hitherto been followed in previous constitutional changes already carried out in India But, as we have already pointed out, the problem of establishing a Federal Constitution in India in present conditions is without parallel in the history of the world and no precedents are therefore germane What we have to do is to create a form of Government to which Parliament will think it safe and wise to transfer responsibility, and we can think of no form of legislature to which such responsibility could be more safely transferred than one which consists of representatives of Governments which themselves enjoy such responsibility in their respective spheres

Under the Constitution which we recommend, the peoples of British India will elect the Parliament to which the Provincial Governments will be responsible and within the area of each Province democracy will be given for the first time full scope for its successful operation As we have already said, the principle of personal rule exists in the States and no one suggests that the States representatives can be responsible to anyone but the head of their State The Federal Parliament therefore which we propose will accurately represent the responsible elements throughout India, and the composition of such a Parliament would in no way prejudice the continuance side by side of the two systems of Government now existing There is no ground for supposing that the Central Federal Legislature so composed would not be as faithful an epitome of the actual conditions prevailing in India to day as the complicated constitution proposed in the White Paper, and there is every ground for believing that it would work much more harmoniously

The Federal Executive

We now approach the question of the Federal Executive As we have already said we believe that there is sufficient material in India from which a competent body of Ministers could be drawn capable of discharging the functions of an Executive Government We think that the Governor-General should be free to select his Ministers at his discretion from this material, outside the ranks of the acting Civil Services, and if the Legislature is composed in the manner we have suggested, we see no reason why the Ministers should not be made responsible for it The Governor General should be given a special responsibility for the subjects specified in the White Paper, just as the Governor is given a special responsibility in the Provinces, but we do not recommend that a system of dyarchy should be created by reserving any departments from the sphere of the Legislature

In the Constitution we recommend the Governor General acting with his Ministers, would be responsible for the administration of all Federal subjects The Ministers would be members of the Legislature and would retain office only so long as they retained its confidence A vote of no confidence in the Ministry would place upon the Governor-General the obligation to appoint other Ministers who would be acceptable to the Legislature, and the power of dissolving the Legislature would, of course, rest with him

These proposals may appear unacceptable at first sight to those whose minds have hitherto travelled along the lines of British Parliamentary procedure, but if the actual conditions in India are studied, we believe that such a Federal Constitution as we have suggested will be found more suitable to those conditions as they now exist, than the complicated proposals of the White Paper. At the same time, it would be capable of development from time to time as circumstances required. Once the practice of Parliamentary Government had been established, the process of increasing the representative character of the Central Legislature could be undertaken gradually as experience proved its justification.

The main difference between our proposals and those of the White Paper is that the White Paper would establish a Legislature which professed to be fully representative of the people of British India, and would withhold from it full responsibility for all Federal subjects, whereas we would establish a Legislature which did not profess to represent the people but did represent the Governments of all the units of Federation, and to that Legislature we would accord full responsibility. The White Paper would look to the future to increase the responsibility of the Legislature we would look to the future to increase its representative character. We believe that our proposals would better accord with the known facts of the situation, for India to-day is ready for responsibility, it is not ready for popular representation. We would accord at once recognition of what is available and leave to the future the gradual realisation of conditions which only time and experience can produce. The White Paper asks India to wait till to-morrow for the responsibility she is capable of realising to-day, and offers her to-day the outward forms of a representative system which cannot be made real and effective for many years to come.

APPENDIX I

COMPOSITION OF THE FEDERAL LEGISLATURE

Total number 300, of whom 200 will be nominated by the Provincial Governments, and 100 by the Indian Princes.

Distribution of numbers as between the Provinces :—

Madras	32
Bombay	26
Bengal	32
U. P.	32
Punjab	26
Bihar	26
C. P.	10
Assam	4
N.-W. F .P.	4
Sind	4
Orissa	4
Total	200

The said amendment is disagreed to.

Paragraphs 160 to 227 are again read.

The further consideration of paragraphs 160 to 227 is postponed.

Paragraphs 228 to 453 are again read and postponed.

Ordered, that the Committee be adjourned to Friday next at half-past Ten o'clock.

Die Veneris 22° Junii 1934

Present :

LORD ARCHBISHOP OF CANTERBURY.
LORD CHANCELLOR.
MARQUESS OF SALISBURY.
MARQUESS OF ZETLAND.
MARQUESS OF LINLITHGOW.
MARQUESS OF READING.
EARL OF DERBY.
EARL PEEL.
VISCOUNT HALIFAX.
LORD MIDDLETON
LORD KER (M. LOTHIAN)
LORD HARDINGE OF PENSHURST.
LORD RANKEILLOUR.
LORD HUTCHISON OF MONTROSE.
MR. ATTLEE.
MR. BUTLER.
MAJOR CADOGAN.
SIR REGINALD CRADDOCK.
MR. DAVIDSON.
SIR SAMUEL HOARE.
MR. MORGAN JONES.
SIR JOSEPH NALL.
LORD EUSTACE PERCY.
SIR JOHN WARDLAW-MILNE.

THE MARQUESS OF LINLITHGOW in the Chair.

The Order of Adjournment is read.
The Proceedings of Wednesday last are read.
PART II is again considered.
Paragraph 43 is again read.

It is moved by Sir John Wardlaw-Milne. Page 21, lines 8 to 14, to leave out from (" basis ") in line 8 to the end of the paragraph and to insert ("for " the setting out of our conclusions although we desire to make it quite plain " that our deliberations have in no way been restricted to the proposals " which it contains.")

The same is agreed to.
Paragraph 43 is again read.
The further consideration of paragraph 43 is postponed.
Paragraphs 44 and 45 are again read and postponed.
Paragraph 46 is again read.

It is moved by the Marquess of Salisbury. Page 22, lines 6 and 7, to leave out from the first (" sphere,") in line 6 to the end of the sentence.

The amendment by leave of the Committee is withdrawn.

It is moved by the Marquess of Salisbury. Page 22, line 20, after (" White " Paper,") to insert (" except to the extent of certain special powers con- " ferred upon the Governor-General ").

The amendment, by leave of the Committee, is withdrawn.

Paragraphs 47 to 50 are again read and postponed.

Paragraph 51 is again read.

It is moved by the Lord Hardinge of Penshurst. Page 24, line 38, to leave out (" device ") and to insert (" method ").

The same is agreed to.

It is moved by the Marquess of Linlithgow on behalf of Sir Austen Chamberlain. Line 40 to leave out (" to ").

The same is agreed to.

All amendments are to the Draft Report (*vide infra*, paras. 1—42B, pp. 470—491; and *vide supra*, paras. 43—453, pp. 64—253) and NOT to the Report as published (Vol. I, Part I).

A Key is attached (*vide infra*, pp. 521—544), showing on which pages of the Proceedings amendments to each paragraph can be found.

Paragraph 51 is again read as amended.

The further consideration of paragraph 51 is postponed.

Paragraph 52 is again read and postponed.

Paragraph 53 is again read.

The following amendments are laid before the Committee.

Sir John Wardlaw-Milne to move. Page 25, lines 21 and 22, to leave out from the beginning of the paragraph to ("We") in line 22 and to insert ("Although we do not regard this plan as in any way ideal and "would have preferred to avoid it, we believe it to be the only solution "possible in the present conditions in India and we therefore accept "it.")

Sir John Wardlaw-Milne to move. Page 25, lines 28 and 29, to leave out from ("Provinces.") in line 28 to the end of line 29.

The consideration of the said amendments is postponed.

It is moved by Mr. Attlee and Mr. Morgan Jones. Page 25, lines 21 to 49, to leave out from ("one,") in line 21 to the end of the paragraph and to insert ("We do not think that this difference of opinion is due to any real "disagreement on grounds of constitutional theory, but is dictated by the "supposed interests of the two communities, and we feel, therefore, free "to consider the matter entirely on its merits, apart from any question "of the views that have been put before us by the contending parties. "It has generally been the case that in the formation of Federal Constitu- "tions in the early stages centrifugal tendencies have been very strong. "These tendencies have in India been reinforced by the fact that a greater "degree of responsibility was given under the Montagu-Chelmsford "Reforms to the Provinces than to the Centre, and the Representatives "of the Provinces have not infrequently tended to press to an extreme "the conception of Provincial Autonomy. So that, in fact, a Central "Government becomes nothing more than a weak and ineffective link "between a number of autonomous units. We recognize that the "composition of the Central Legislature, representing as it will partly "the Provinces and partly the Indian States, may seem to reinforce "the arguments of those who claim that residual powers should be in "the Provinces; but it has been a general experience in Federations "that after a period of time it has been found that the powers of the "Central Government are insufficient and that too great a degree of "autonomy has been given to Provincial units. We are not unmindful "of the danger of centrifugal tendencies developing in India, particularly "in view of the fact that some Provinces differ from others in the pre- "dominance of certain communities, and we should be unwilling in "any way to strengthen and encourage tendencies which would work "against the unity of India. We therefore consider that in view of "future possibilities, it would be wise that the residuary powers should "remain with the Centre.")

The same is disagreed to.

It is moved by the Lord Eustace Percy. Page 25, to leave out paragraph 53 and to insert the following new paragraph: —

Difficulty of White Paper Proposal.

("53. This scheme of allocation of powers has obvious disadvantages. It will be observed that, for the purpose of reducing the residuary powers to the smallest possible compass, the lists of subjects dealt with in all three Lists are necessarily of great length and complexity; whereas (apart from the question of the Concurrent List) if it had been possible to allocate residuary legislative powers to, e.g., the Provinces, only a list of Central powers would have been required, with a provision to

the effect that the legislative powers of the Provinces extended to all powers not expressly allocated to the Centre; and conversely, if the residue had been allocated to the Centre. This broadly is the plan which has been adopted in Canada and Australia, the residuary powers being vested, in the case of Canada, in the Dominion Legislature, and, in the case of Australia, in the Legislatures of the States. Even so, experience has unhappily shown that it has been impossible to avoid much litigation on the question whether legislation on a particular subject falls within the competence of one Legislature or the other; and it seems clear that the attempt made in the White Paper to allocate powers over the whole field of legislation by the expedient of specific enumeration must tend considerably to increase the danger of litigation by multiplying points of possible inconsistency.")

The same is agreed to.

New paragraph 53 is again read.

The further consideration of paragraph 53 is postponed.

Paragraph 54 is again read.

It is moved by The Lord Eustace Percy. Page 26, to leave out paragraph 54 and to insert the following new paragraph:

("54. On the other hand, there are two grounds on which the White Paper scheme may be defended, one of immediate political expediency and the other of constitutional substance. On the first point, we gather from our discussions with the Indian delegates that a profound cleavage of opinion exists in India with regard to the allocation of the residuary legislative powers; one school of thought, mainly Hindu, holding as a matter of principle that these powers should be allocated to the Centre, and the other, mainly Muhammadan, holding not less strongly that they should be allocated to the Provinces. Where apparently irreconcilable difference of opinion thus exists between the great Indian communities on a matter which both of them appear to regard as one of principle, the proposals of His Majesty's Government may be defended as a reasonable compromise. On the point of constitutional substance, it seems to us that, if a choice were to be made between the two alternative principles to which we have just drawn attention, the logical conclusion of the proposals in the White Paper would be the allocation of all residuary legislative powers to the Provincial Legislatures; but this solution would, we think, require to be accompanied by the insertion in List I of some general over-riding power of central legislation in matters of All-India concern, since a new subject of Legislation cannot be left to fall automatically into the Provincial field, irrespective of its national implications. But it is precisely an over-riding clause of this kind which has led to litigation in other non-unitary States. On the whole, therefore, we are unwilling to recommend an alteration of the White Paper proposal in a field in which experience shows that no wholly satisfactory solution is possible.") Cleavage of opinion in India.

The same is agreed to.

New paragraph 54 is again read.

The further consideration of paragraph 54 is postponed.

Paragraphs 55 to 57 are again read and postponed.

Paragraph 58 is again read.

It is moved by the Lord Hardinge of Penshurst. Page 28, lines 12 to 14, to leave out from ("elsewhere") in line 12 to ("in") in line 14.

The amendment, by leave of the Committee, is withdrawn.

Paragraph 58 is again read.

The further consideration of paragraph 58 is postponed.

Paragraph 59 is again read and postponed.

Paragraph 60 is again read.

It is moved by Mr. Attlee and Mr. Morgan Jones. Page 29, lines 5 to 9, to leave out from ("controversy:") in line 5 to the end of the sentence and to insert ("We have fully considered the representations made to us by "Oriya and Telegu witnesses and the views of the Government of India and "of the provincial Governments concerned. We have also studied the "reports of the three inquiries which have been held on the subject. We "think it unlikely that further inquiry will elicit new facts or arguments. We therefore recommend that the boundaries of the new Province should be those laid down in the White Paper with the addition of the Jeypore "Zemindary.")

The amendment, by leave of the Committee, is withdrawn.

It is moved by Mr. Attlee and Mr. Morgan Jones. Page 29, lines 9 to 14, to leave out from ("determine") in line 9 to the end of the paragraph and to insert ("We believe that even with the creation of these new Provinces there "is a strong case for a reconsideration of Provincial boundaries, and we "recommend that the Indian Legislature should as soon as possible after the "coming into force of the new Constitution set up a Boundaries Commission "to delimit the extent of the Provinces and to decide if some should, for "greater facility in working, be divided. Generally speaking, we consider "that the Provinces, however suitable as administrative units under an auto- "cracy, are, in many cases, too large for the efficient working of democratic "institutions for a people at the stage of development of that of many of the "inhabitants of India, although, at the same time, we recognise that a "Provincial patriotism has, in many instances, already been developed. It is therefore, in our view, essentially a matter which should be decided by the representative of the Indian people. We would add here a word as to the proposition which has been put before us on many occasions, namely, that no area which is not financially self-sufficient should be formed into a Province. We cannot accept this contention. It is a fact that the Indian Provinces and various parts of them differ widely in their financial resources, but we can see no reason why, two areas that admittedly differ in their racial and linguistic composition, should be united in order that one of them might bear the burden of the deficit in the other. In our view, the mere fact of contiguity to a deficit area does not make it equitable to impose a burden on the people of a particular Province. We recognize that it is desirable that no part of India should be seriously regarded in its progress as compared with others by reason of its lack of resources, but we consider that the difficulty should be got over by the grant of funds from the whole of India, rather than that the burden of the deficit areas should be placed on particular Provinces for purely geographical reasons.")

The same is disagreed to.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 29, lines 11 to 14, to leave out from ("purpose;") in line 11 to the end of the paragraph and to insert ("we think that the actual alteration of boundaries should be carried "out by Order in Council, but that the initiative should come from the "Provinces concerned and should receive the concurrence of the Central "Government and Legislature.")

The same is agreed to.

Paragraph 60 is again read as amended.

The further consideration of paragraph 60 is postponed.

Paragraph 61 is read.

It is moved by Mr. Attlee, Mr. Morgan Jones, and Sir John Wardlaw-Milne Page 29, lines 20 and 21, to leave out from ("Legislature,") in line 20 to the end of the paragraph.

The amendment, by leave of the Committee, is withdrawn.

Paragraph 61 is again read.

The further consideration of paragraph 61 is postponed.

It is moved by the Marquess of Linlithgow. Page 29, after paragraph 61, to insert the following new paragraph:—

("61A. If effect is given to our recommendations, there will be in India eleven autonomous Provinces. Of these the area of Bengal is approximately 78,000 square miles, and its population approximately 50,000,000; the corresponding figures for Madras are 136,000, and 45,000,000; for Bombay (excluding Sind) 77,000, and 18,000,000, for the United Provinces 106,000, and 48,000,000, for the Punjab 99,000, and 24,000,000. It is over these immense areas and populations that Indians will in future be responsible for every function of civil government in the provincial sphere. The area of Great Britain is 89,000 square miles, with a population of 43,000,000; of France 212,000 square miles, with a population of 42,000,000; of Italy 120,000 square miles, with a population of 42,000,000. We make these comparisons because they illustrate the scope which will be afforded to Indian statesmen by the grant of responsible government in the provincial field, as well as the burden which in every Province will fall upon Indians in both Legislatures and Governments. It is no doubt natural that the attention of political opinion in India should at the time of our enquiry be concentrated rather upon the question of responsibility at the Centre, and we think that it is therefore all the more important that we should in this place emphasise the magnitude of the constitutional advance which we contemplate in the Provinces and emphasise the extent of the opportunity thus presented to Indians to justify in the service of their respective Provinces their claim for self government.") Constitutional advance in the provincial field.

The same is agreed to.

New paragraph 61A is again read.

The further consideration of paragraph 61A is postponed.

Paragraphs 62 to 67 are again read and postponed.

Paragraph 68 is again read.

It is moved by Sir John Wardlaw-Milne. Page 32, lines 16 and 17, to leave out from ("Country") in line 16 to ("the") in line 17.

The same is agreed to.

It is moved by Mr. Attlee and Mr. Morgan Jones. Page 32, lines 18 to 25, to leave out from ("otherwise") in line 18 to the end of the paragraph.

The amendment by leave of the Committee is withdrawn.

Paragraph 68 is again read, as amended.

The further consideration of paragraph 68 is postponed.

Paragraphs 69 and 70 are again read and postponed.

Paragraph 71 is again read.

It is moved by the Lord Eustace Percy and the Earl of Derby. Page 33, to leave out paragraph 71 and to insert the following new paragraph:—

("71. We have already pointed out that, in the present Government of India Act, there is a provision which requires the Governor to be Relations between Governor and Ministers.

'guided by' the advice of his Ministers in all matters relating to transferred subjects, unless he sees sufficient cause to dissent from their opinion. The White Paper, as we read it, does not propose that the Constitution Act itself shall contain any provisions on this subject. The Act will commit certain matters to the Governor's sole discretion, such, for instance, as his power of veto over legislation and the regulation of matters relating to the administration of excluded areas. It will also contain a declaration that certain special responsibilities are to rest upon the Governor. For the rest, it will provide that the Governor shall have a Council of Ministers to aid and advise him, but his relations with his Ministers are left to be determined wholly by the Instrument of Instructions. We agree that it is desirable that the Governors' special responsibilities, over and above the matters which are committed to his sole discretion, should be laid down in the Act itself rather than that they should be left to be enumerated thereafter in the Instrument of Instructions. In the first place, Indian public opinion will thereby be assured that the discretionary powers of the Governor to dissent from his Ministers' advice is not intended to be unlimited, and, secondly, the right will thereby be secured to Parliament to consider and debate the scope of the Governor's powers before the Constitution Bill passes finally from their control. On the other hand, we agree that it would be undesirable to seek to define the Governor's relations with his Ministers by imposing a statutory obligation upon him to be guided by their advice, since to do so would be to convert a constitutional convention into a rule of law and thus, perhaps, to bring it within the cognisance of the courts.")

The same is agreed to.

New paragraph 71 is again read.

The further consideration of paragraph 71 is postponed.

Paragraph 72 is again read.

It is moved by the Lord Hardinge of Penshurst. Page 34, lines 9 and 10, to leave out from ("numerous,") in line 9 to the end of the sentence.

The amendment by leave of the Committee is withdrawn.

It is moved by Sir John Wardlaw-Milne. Page 34, lines 12 to 15, to leave out from ("defined;") in line 12 to the end of the paragraph.

The amendment by leave of the Committee is withdrawn.

It is moved by the Lord Hardinge of Penshurst. Page 34, line 13, to leave out ("unnecessary") and to insert ("undesirable").

The same is agreed to.

Paragraph 72 is again read, as amended.

The further consideration of paragraph 72 is postponed.

Paragraph 73 is again read.

It is moved by the Marquess of Salisbury. Page 34, line 23, after ("development.") to insert. ("But the method of submission to Parliament "should secure that if either House dissent from the Instrument of "Instructions or from any subsequent amendments of it, it or they should "be of no effect.")

The amendment, by leave of the Committee, is withdrawn.

Paragraph 73 is again read.

The further consideration of paragraph 73 is postponed.

Paragraphs 74 and 75 are again read and postponed.

Paragraph 76 is again read.

It is moved by Mr. Morgan Jones and Mr. Attlee. Page 35, line 36, to leave out ("cannot").

The same is disagreed to.

It is moved by Mr. Morgan Jones and Mr. Attlee. Page 35, lines 36, & 37, to leave out ("these suggestions") and to insert ("the first suggestion").

The same is disagreed to.

It is moved by Mr. Morgan Jones and Mr. Attlee. Page 35, lines 37 to 42, to leave out from ("suggestions") in line 37 to the end of the sentence and to insert ("We feel that the special responsibilities of the Governor should "be reduced to the absolute minimum necessary, and that the provision in "the White Paper is drawn in such wide terms as to enable the Governor to "step in and overrule ministers over a very wide field. To give such wide "powers of intervention is, in our view, likely to reduce that sense of respon- "sibility which we wish to see created in Ministers and Legislatures. We "believe that the success of the Provincial Governments will be shown "just in so far as such a power does not have to be exercised and we consider "that powers given to the Governor must be adequate, but in our view they "should essentially be emergency powers to be used only where a breakdown "threatens and not to be part of the ordinary operation of government").

The same is disagreed to.

It is moved by Mr. Morgan Jones and Mr. Attlee. Page 35 and 36, to leave out from ("drawn") in line 42, page 35, to ("With") in line 6 page 36, and to insert ("We do not agree however that any action taken by the "Governor should be confined to the department of law and order. This is "to fall into the mistake which may perhaps have arisen owing to the "operation of dyarchy, in imagining that Government can be divided up "into a series of water-tight compartments").

The same is disagreed to.

It is moved by Mr. Attlee and Mr. Morgan Jones. Page 36, lines 14 to 25, to leave out from ("formula") in line 14 to the end of line 25 and to insert ("With regard to the word 'minorities' we agree with the British Indian "Delegation in thinking that it is capable of a dangerously wide interpretation. "It may be said that the term 'minorities' has a special meaning in India "and connotes the Minority Communities such as the Muslims, the Sikhs, "or the Indian Christians, and that the Governor will well understand the "scope of the phrase. We fear, however, that it may be possible for some "Governor in the future so to interpret the word as to make him feel it "incumbent upon him to prevent legislation directed to the removal of "economic, social and religious abuses, and we therefore propose that the "words racial and religious should be inserted before the word 'minorities'").

The same is disagreed to.

It is moved by the Lord Kerr (M. Lothian). Page 36, line 22, after "protection" to insert ("especially in cases where, as under the proviso to "proposal 122 of the White Paper, an appeal to the Courts for redress against "legislative discrimination based on religion, descent, caste, colour or place "of birth, is precluded by the Constitution").

The amendment, by leave of the Committee, is withdrawn.

It is moved by Mr. Morgan Jones and Mr. Attlee. Page 36, line 29, to leave out ("privileges guaranteed") and to insert ("privileges definitely "guaranteed to them").

The same is disagreed to.

It is moved by Mr. Morgan Jones and Mr. Attlee. Lines 30 to 41, to leave out lines 30 to 41 inclusive and to insert ("agree with this proposal").

The same is disagreed to.

Paragraph 76 is again read.

The further consideration of paragraph 76 is postponed.

Paragraph 77 is again read.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 37, line 1, after ("State,") to insert ("with due regard to the established rights of either "party,").

The same is agreed to.

Paragraph 77 is again read as amended.

The further consideration of paragraph 77 is postponed.

Paragraph 78 is again read and postponed.

Paragraph 79 is again read.

It is moved by Mr. Butler and Sir Samuel Hoare. Page 37, lines 23 to 26, to leave out from ("the") in line 23 to ("makes") in line 26 and to insert ("Governor's responsibilities within the administered districts of his Province "and the responsibilities of the Governor-General exercised through the person "of the Governor in his other capacity as Agent-General for the Tribal Tracts "on the borders of the Province").

The same is agreed to.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 37, after line 31 to insert the following new sub paragraph :—

("But, in our opinion, the two proposals in the White Paper which have reference to special circumstances in particular Provinces do not exhaust the requirements of this kind. It has come to our notice that, under the system of joint administration of the Districts known as the Berars with the Central Provinces which has obtained for many years, and which, as we have already pointed out, will continue under the new Constitution, there has been a tendency on the part of the inhabitants of the Berars, and of their representatives in the Legislature, to criticise the apportionment between the two areas forming the joint Province as favouring unduly the Central Provinces area to the disadvantage of the Berars. We express no opinion as to the justification for such criticisms, but it is evident that, under a system of responsible government, the scope for grievances on this account may well be increased. We think therefore, that the Governor of the joint Province should have imposed upon him a special responsibility and should thus be enabled to counteract any proposals of his Ministry which he regards as likely to give justifiable ground for complaint on this account. Without attempting to usurp the functions of the draftsman, we suggest that the purpose we have in view would be adequately expressed in defining the special responsibility in some such terms as :

"'The expenditure in the Berars of a reasonable share of the revenues raised for the joint purposes of the Berars and the Central Provinces.'

"We think, moreover, that the Governor might appropriately be directed in his Instrument of Instructions to constitute some impartial body to advise him on the principles which should be followed in the distribution of revenues if he is not satisfied that past practice affords an adequate guide for his Ministers and himself for the discharge of the special responsibility imposed upon him in respect of them.

"We also think that the special position of the Berars should be recognised by requiring the Governor, through his Instrument of Instructions, to interpret his special responsibility for 'the protection of the rights of any Indian State' as involving *inter alia* an obligation upon him, in the administration of the Berars, to have due regard to the commercial and economic interests of the State of Hyderabad.")

The same is agreed to.

Paragraph 79 is again read as amended.

The further consideration of paragraph 79 is postponed.

It is moved by Sir Samuel Hoare and Mr Butler After paragraph , page 37, to insert the following new paragraph :-

("79A We think it desirable to make some reference to the suggestion that among the special responsibilities of the Governor should be included the safeguarding of the financial stability and credit of the Province following the analogy of the special responsibility of this kind, which, as we shall explain later, we recommend should be imposed on the Governor-General in relation to the Federation [1] A similar proposal was examined and rejected by the Statutory Commission [2] on the ground that a power of intervention over so wide a field would hinder the growth of responsibility We agree with this view The other special responsibilities which we recommend will give the Governor adequate powers in relation to supply and taxation to ensure that their due discharge is not impeded by lack of financial resources, we refer specially to one aspect of this matter below [3] But the addition of a special financial responsibility would increase enormously the range of his special powers There is no real parallel with the situation at the Centre where there is paramount necessity to avoid action which might prejudice the credit of India as a whole in the money markets of the world and where so considerable a proportion of the revenues are needed for the expenditure of the reserved departments [4] The Statutory Commission point out that the Central Government, through their powers of control over Provincial Borrowing should be able to exercise a salutary influence over Provinces We also attach importance to this method of checking improvidence on the part of a Province, and as we explain below,[5] we approve subject to one modification the proposals in the White Paper for the regulation of Provincial Borrowing ")

A special responsibility for safeguarding financial stability of Province not recommended.

The same is agreed to

New paragraph 79A is again read

The further consideration of paragraph 79A is postponed

Ordered, that the Committee be adjourned to Monday next at half-past Four o'clock

[1] *Infra* paragraphs 166 and 167
[2] Report Vol II paragraph 189
[3] *Infra*, paragraphs 303 307
[4] *Infra*, paragraph 170
[5] *Infra* paragraph 262

Die Lunae 25° Junii 1934

Present .

LORD ARCHBISHOP OF CANTERBURY.
LORD CHANCELLOR.
MARQUESS OF SALISBURY.
MARQUESS OF ZETLAND.
MARQUESS OF LINLITHGOW.
MARQUESS OF READING.
EARL OF DERBY.
EARL OF LYTTON.
EARL PEEL.
VISCOUNT HALIFAX.
LORD MIDDLETON.
LORD KER (M. LOTHIAN).
LORD HARDINGE OF PENSHURST.
LORD SNELL.
LORD RANKEILLOUR.
LORD HUTCHISON OF MONTROSE.

MR. ATTLEE.
MR. BUTLER.
MAJOR CADOGAN.
MR. COCKS.
SIR REGINALD CRADDOCK.
MR. DAVIDSON.
MR. FOOT.
SIR SAMUEL HOARE.
SIR JOSEPH NALL.
LORD EUSTACE PERCY.
SIR JOHN WARDLAW-MILNE.
EARL WINTERTON.

THE MARQUESS OF LINLITHGOW in the Chair.

The Order of Adjournment is read.

The Proceedings of Friday last are read.

Paragraphs 80 to 82 are again read and postponed.

Paragraph 83 is again read.

It is moved by the Lord Eustace Percy. Page 38, line 36, to leave out from the beginning of the paragraph to (" (i) ") in line 42 and to insert (" We have considered various suggestions to meet this difficulty.")

The same is agreed to.

It is moved by the Marquess of Reading, the Lord Ker (M. Lothian), and Mr. Isaac Foot Page 38, line 43, after (" fit,") to insert (" and with the " consent of the Chief Minister ".)

The amendment, by leave of the Committee, is withdrawn.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 39, line 9, to leave out from (" appointment.") in line 9 to the end of the paragraph and to insert (" We can see no advantage, and many disadvantages, in the ' second and third of these suggestions, and the fourth is open to the grave ' objection that it would infringe the Governor's prerogative. The only ' plan, therefore, which, in our opinion, merits consideration is the first. ' We have, however, come to the conclusion that such advantages as ' might be anticipated from a provision in the Constitution Act enabling ' the Governor to appoint to his Ministry one or more persons who are ' not members of the Legislature would weigh little in the balance against ' the dislike and suspicion with which such a provision would undoubtedly ' be viewed almost universally in India— a dislike and suspicion so strong ' that we think it unlikely that any Governor would, in fact, find it possible " to exercise such a power. We recommend, therefore, that the proposal in " the White Paper to which we have alluded should remain unchanged.")
Objected to.

All amendments are to the Draft Report (*vide infra*, paras. 1-42B, pp. 470-491; and *vide supra*, paras. 43 453, pp. 64-253) and NOT to the Report as published Vol. I, Part I).

A Key is attached (*vide infra*, pp. 521-544), showing on which pages of the Proceedings amendments to each paragraph can be found.

On Question :—

Contents (19).	Not Contents (9).
Lord Archbishop of Canterbury.	Marquess of Salisbury.
Lord Chancellor.	Marquess of Linlithgow.
Marquess of Zetland.	Earl of Lytton.
Marquess of Reading.	Lord Middleton.
Earl of Derby.	Lord Rankeillour.
Earl Peel.	Sir Reginald Craddock.
Viscount Halifax.	Sir Joseph Nall.
Lord Ker (M. Lothian).	Lord Eustace Percy.
Lord Hardinge of Penshurst.	Sir John Wardlaw-Milne.
Lord Snell.	
Lord Hutchison of Montrose.	
Mr. Attlee.	
Mr. Butler.	
Major Cadogan.	
Mr. Cocks	
Mr. Davidson.	
Mr. Foot.	
Sir Samuel Hoare	
Earl Winterton	

The said amendment is agreed to.

Paragraph 83 is again read as amended.

The further consideration of paragraph 83 is postponed.

Paragraph 84 is again read.

The following amendments are laid before the Committee.

The Marquess of Reading, the Lord Ker (M. Lothian), and Mr. Isaac Foot to move. Page 39, lines 24 to 29, to leave out from ("members.") in line 24 to ("The") in line 29.

Sir John Wardlaw-Milne to move Page 39, lines 41 and 42, to leave out ("(which we do not suggest)").

The Marquess of Reading, the Lord Ker (M. Lothian), Mr. Isaac Foot, and Sir John Wardlaw-Milne to move. Page 40, lines 1 to 4 to leave out from ("Executive.") in line 1 to the end of the paragraph.

The consideration of the said amendments is postponed.

It is moved by Sir Samuel Hoare, Mr. Attlee, Mr. Cocks, and the Lord Snell.

Pages 39 and 40, to leave out paragraph 84.

The same is agreed to.

Paragraph 85 is again read and postponed

Paragraphs 85 to 88 are again read.

It is moved by Sir Reginald Craddock, the Lord Middleton, Sir Joseph Nall, and the Marquess of Salisbury. Pages 40 to 12, to leave out paragraphs 85 to 88, and to insert the following new paragraph :—

("85. In accordance with the recommendations of the Statutory Commission we agree to the proposed transfer to responsible Ministers of subjects of great importance, including among others Land Revenue Administration, Finance, Irrigation, and Forests. The immense responsibilities involved in the efficient administration of these great departments cannot be denied. They are all of vital importance to the interests of the people at large, but the question of law and order stands out by itself and we approach it with a profound sense of its vital importance in the solution of the Indian Constitutional

problem. In the first place let us say that though no doubt the careful consideration of this subject during recent years, and the discussions upon it, ought to have great weight with our judgment, yet the opinions upon it originally expressed by the various local Governments and by the Provincial Committees elected by the several legislatures to co-operate with the Statutory Commission are in our judgment of special value, because they reflect independent opinions held while the slate was clean and before any pronouncement on this subject or any plans for the reformed Constitution had been made by the Statutory Commission itself or by the Governor General or Provincial Governors or by the Secretary of State. The Commission have summarised these opinions as well as those of the Local Governments and have set out the case for and against the transfer of Law and Order with scrupulous fairness in paragraphs 57 to 65 of their second volume. Though, as is well known, the Commission, not without some hesitation, reported in favour of the transfer to the new Provincial Ministers, they made certain observations commenting on these local expert opinions to which we would call attention. In paragraph 58 they write:

'In the same way there are British politicians sincerely desirous of helping India along the road indicated by the declaration of August 20th, 1917, and by the preamble of the Government of India Act, who may find great difficulty, whether from want of appreciation of Indian conditions or an innate conviction of the curative effects of self-government, in realising why it is that many experienced and disinterested administrators who are familiar with the actual situation, as well as important bodies of non official opinion, hesitate to give their support at the present time to the proposal. It would be a great injustice to these men to dismiss their view as mere bureaucratic prejudice.'

And later on, paragraph 59 they say:

'we are bound to point out that it (hesitation to approve transfer) is a view by no means confined to the majority of British officers who are Inspectors General of Police in the various Provinces, or to others whether British or Indian in important official positions, but it has been expressly or impliedly supported by large bodies of non-official Indian opinion.'

Moreover, it is surely relevant to the issue with which we are now dealing that the recommendations of the Commission had to be made without any cognisance of the grave problem of terrorist conspiracies in Bengal of many most serious communal riots (including the shambles of Cawnpore in 1931); of the narrow escape of the European and Anglo-Indian residents in Sholapur in May, 1930; of the dangerous Redshirt movement in the Frontier Province entailing serious military operations; of the rebellion in Burma; and of the attempts made to infect "workers and peasants" with communist doctrines. But this Committee and Parliament cannot regard all these sinister occurrences and movements as incidents to be ignored, nor would it have been possible for the Commission itself to have ignored them had they happened before their Report was presented to Parliament. In our view these later events afford ample reasons for reconsidering the proposal to transfer to the charge of inexperienced Ministers and Legislatures of unknown composition this vitally important department of Law and Justice.

"There is a further point to which we must refer before setting out our conclusions. Defence is a Reserved Subject under the White Paper and that term comprehends not merely defence against foreign aggression or tribal incursions, but the maintenance throughout the land of internal security. It is, therefore, essential that in the disturbed times of communal riots and rebellions such as that which occurred in Burma, there

must be the closest co-operation between the military and the police Without such co-operation the troops are at a great disadvantage. They know nothing of the topography of the place in which they are called upon to assist the civil power or of the character of the mobs which they are called upon to overawe. The police have to be their eyes and ears upon all such occasions and it is all-important that the police and the troops should not in these emergencies be under divided control. But it is impossible to estimate how far this co-operation could be obtained if and when the police have come to recognise that their attitude and the support they will receive depend upon Ministers who have had no experience in difficult circumstances, and who, even if they are scrupulously fair, may be subject to popular accusations of partiality or corruption. The Statutory Commission have expressed admiration for the impartial conduct of the police, Hindus and Mohammedans alike, in the case of communal disturbances, and they have rightly attributed this faithful fulfilment of duty to the confidence of the police in their officers, of whom the majority are British. This confidence is born of the belief that the control of the police being reserved, their officers will not only support them but will themselves be supported by the Government. The change over of the control of the police to Ministers, though it may not shake the confidence of the rank and file in their British officers, may well shake the belief in the fulness of the support that the Government will give to the officers themselves, and if that belief is shaken, the disintegration of the loyalty of the police is sure, sooner or later, to follow.

"We believe that these considerations are of general application to the greater part of British India, but we gladly recognise that they will only be felt acutely in particular Provinces, being a relatively small minority of the whole, and we are aware that not only the Statutory Commission itself but many other authorities of great weight have expressed the opinion that full Provincial responsibility cannot be achieved without the transfer. On the whole, therefore, we are prepared to recommend a considerable step in that direction. But this must in our judgment be protected by certain safeguards which the Commission itself suggested and with such adjustments of precaution as have been rendered necessary by the emergency of subversive and terrorist movements since their Report was written.

"The recommendations of the Commission pre-supposed that the rest of their proposed Constitution would be accepted that is to say that there would be a Government at the Centre not responsible to the legislature, and that there might be official Ministers in the Provinces supplementary to the responsible Governments. We admit that if it were agreed to lay aside the proposals for a Central responsible Government the risks of the transfer of Law and Order even where the Terrorist conspiracy is acute would be greatly diminished. In the same way we believe that the appointment of Councillors as part of the Provincial Governments would give greater security. It has been urged in evidence before us that in two or three Provinces Indians have already been in charge of the Home Department and have administered it with efficiency, but the point does not lie in any difference between an Indian and a European in this capacity. The position of an Executive Councillor on the reserved side of Government *vis-a-vis* the legislature is totally different from the position of a Minister under the White Paper scheme. In the first place he acts not as an individual but in the name of the Governor in Council. The decisions he makes are issued on that authority. In the second place he has been appointed by the Crown and unless he himself chooses to resign he is secure of his position for many years without any fear of his critics in the legislature, and without being at the mercy of a violent Press agitation, or of intrigues to bring about his

resignation. He is thus in a sheltered position. The mere fact that an Indian Executive Councillor has filled this post with satisfaction offers no proof that a Minister in that position would have been equally successful. We consider therefore that the appointment, where he is required, of a nominated Councillor who may take charge of Law and Order, is of great importance. When we use the words 'where he is required' we mean until the Governor is able to satisfy Parliament that these safeguards can be dispensed with.

"We could of course limit our recommendation to the particular instances where terrorist agitation is already acute, but there are other subversive movements and dangerous possibilities, and such a limitation does not adequately cover the necessary conditions. We prefer, therefore, to put it forward in general terms and to advise that the Governor shall himself administer the police through a Councillor nominated by him, but that wherever after a reasonable time he may consider that the interests of the public peace no longer require these precautions, it shall be lawful for the Secretary of State by Order in Council, approved by both Houses of Parliament, to transfer the department to a responsible Minister. Provided that, if at any time, the Governor shall find that by reason of the transfer, the peace and tranquillity of the Province is jeopardised he may, for such time as he may think it expedient, resume such control in whole or in part.

"There is a further reason why these provisions should have effect. The organisation at present in operation against terrorism includes a vital element in the form of an Intelligence Department, both Provincial and Central. The Special Branch, as it is called, operates as a source of information, working through confidential agents. It was proved before us that this system is only possible where the agents consider themselves absolutely secure from any revelation of their identities. It is, of course abundantly possible that an Indian Minister responsible to the Legislature may be as deserving of absolute confidence in this respect as any nominated Councillor, but however that may be we are fully satisfied that rightly or wrongly, none of these agents would believe it, and the evidence was overwhelming that the least suspicion that their information passed into such hands would permanently dry up the source from which it comes. We consider, therefore, that the Special Branch should be maintained under the orders of the Governor-General in his discretion, and that any corresponding organisation in the Provinces should be under its directions through the Governor in his discretion. We think it right to add that these difficulties which surround the Special Branch and their solution carry us back to the question of the police and supply us with an additional cogent reason for entrusting the Governor with the power which we have already indicated of keeping them under his own control through a nominated Councillor. It has been pointed out to us upon great authority that in fighting terrorism it may be necessary not only to make secure the machinery of the Special Intelligence Branch itself, but also to provide that there shall be no obstacles to prevent the police from effectively co-operating with it.")

Objected to.

On Question :—

Contents (5).	Not Contents (19).
Marquess of Salisbury.	Lord Chancellor.
Lord Middleton.	Marquess of Zetland.
Lord Rankeillour.	Marquess of Linlithgow.
Sir Reginald Craddock.	Marquess of Reading.
Sir Joseph Nall.	Earl of Derby.
	Earl of Lytton.
	Earl Peel.

Contents (5)	Not Contents (19) – *continued.*
	Viscount Halifax
	Lord Ker (M. Lothian)
	Lord Hardinge of Penshurst
	Lord Hutchison of Montrose
	Mr. Attlee
	Mr. Butler
	Major Cadogan
	Mr. Cocks
	Mr. Davidson
	Mr. Foot
	Sir Samuel Hoare
	Lord Eustace Percy

The said amendment is disagreed to.

Paragraph 85 is again read.

The further consideration of paragraph 85 is postponed.

Paragraph 86 is again read.

It is moved by the Marquess of Zetland, the Earl of Derby, the Lord Hardinge of Penshurst, the Lord Hutchison of Montrose, Major Cadogan and the Lord Eustace Percy: Page 40, line 38, after ("the") to insert ("general").

The same is agreed to.

Paragraph 86 is again read, as amended.

The further consideration of paragraph 86 is postponed.

Paragraph 87 is again read.

It is moved by the Lord Eustace Percy: Page 40, lines 41 to 4[illegible], to leave out from ("it") in line 41 to ("order") in line 4[illegible] and to insert ("[illegible] had no responsibility for [illegible]").

The same is agreed to.

It is moved by the Lord Eustace Percy: Page 41, lines [illegible] to [illegible], to leave out from ("and") [illegible] to the end of the sentence and to insert ("nothing will afford Indians the opportunity of demonstrating more conclusively [illegible] to govern themselves than the [illegible]").

The same is agreed to.

It is moved by the Lord Eustace Percy: Page 41, lines 20 to 26, to leave out from ("Minister") in line 20 to the end of the paragraph and to insert ("If the transfer is to be made, as we think it should, it is essential that the Force should be protected so far as possible against these risks, and we therefore proceed to consider how this protection can be provided").

The same is agreed to.

Paragraph 87 is again read, as amended.

The further consideration of paragraph 87 is postponed.

Paragraph 88 is again read.

It is moved by the Lord Rankeillour and the Lord Hardinge of Penshurst: Page 41, line 27, at the beginning to insert ("In the first place"), and to leave out (", however,").

The same are agreed to.

It is moved by the Lord Hardinge of Penshurst: Page 41, lines 28 and 29, to leave out ("In the first place,")

The same is agreed to.

It is moved by the Lord Rankeillour and the Lord Hardinge of Penshurst: Page 41, line 42, after ("force") to insert ("or from any other cause").

The amendment, by leave of the Committee, is withdrawn.

It is moved by the Lord Rankeillour and the Lord Hardinge of Penshurst, Page 41, line 43, after the first (" the ") to insert (" immediate ").

The amendment, by leave of the Committee, is withdrawn.

Paragraph 88 is again read, as amended.

The further consideration of paragraph 88 is postponed till tomorrow.

Ordered, that the Committee be adjourned till tomorrow at half-past Ten o'clock.

Die Martis 26° Junii 1934

Present :

LORD ARCHBISHOP OF CANTERBURY.
MARQUESS OF SALISBURY.
MARQUESS OF ZETLAND.
MARQUESS OF LINLITHGOW.
MARQUESS OF READING.
EARL OF DERBY.
EARL OF LYTTON.
EARL PEEL.
VISCOUNT HALIFAX.
LORD MIDDLETON.
LORD KER (M LOTHIAN).
LORD HARDINGE OF PENSHURST.
LORD SNELL
LORD RANKEILLOUR.
LORD HUTCHISON OF MONTROSE.
MR. ATTLEE.
MR. BUTLER.
MAJOR CADOGAN.
MR. COCKS.
SIR REGINALD CRADDOCK.
MR. DAVIDSON.
MR. FOOT.
SIR SAMUEL HOARE.
MR. MORGAN JONES.
SIR JOSEPH NALL.
LORD EUSTACE PERCY.
SIR JOHN WARDLAW-MILNE.
EARL WINTERTON.

THE MARQUESS OF LINLITHGOW in the Chair.

The Order of Adjournment is read.

The Proceedings of yesterday are read.

Paragraph 88 is again considered.

It is moved by the Lord Rankeillour and the Lord Hardinge of Penshurst. Page 41, lines 44 to 47, to leave out from the first ("be") in line 44 to ("Secondly") in line 47 and to insert ("required, even to the extent of "taking into his own hands the administration of any function of Government "that the exigencies of the position might demand. He might indeed in "certain circumstances be confronted with the necessity for retaining such "powers in his hand at the very inception of autonomy.")

The Amendment, by leave of the Committee, is withdrawn.

Paragraph 88 is again read as amended.

The further consideration of paragraph 88 is postponed.

Paragraph 89 is again read.

It is moved by the Marquess of Zetland the Earl of Derby, the Lord Hardinge of Penshurst, the Lord Hutchison of Montrose, Major Cadogan, and the Lord Eustace Percy. Page 42, line 23, to leave out ("it may well "be") and to insert ("we are satisfied").

The same is agreed to.

It is moved by the Marquess of Zetland, the Earl of Derby, the Lord Hardinge of Penshurst the Lord Hutchison of Montrose, Major Cadogan, and the Lord Eustace Percy. Page 42, line 25, to leave out ("at least the "Governor's knowledge") and to insert "(the Governor's consent").

The same is agreed to.

It is moved by the Marquess of Zetland, the Earl of Derby, the Lord Hardinge of Penshurst, the Lord Hutchison of Montrose, Major Cadogan, and the Lord Eustace Percy. Page 42, lines 26 to 36, to leave out from beginning of line 26 to the end of the paragraph and to insert ("We, therefore, "recommend that the Police Act of 1861 should not be subject to repeal or

All amendments are to the Draft Report (*vide infra* paras. 1—42B, pp. 470—491; and *vide supra* paras. 43—453, pp. 64—253) and NOT to the Report as published. (Vol. I, Part I).

A Key is attached (*vide infra* pp. 521—544) showing on which pages of the Proceedings amendments to each paragraph can be found.

"alteration by the Legislature without the prior consent of the Governor-"General, and that the Police Acts of the Governments of Bombay, Bengal, "and Madras should be included in the category of Acts which should not be "repealed or altered by the Provincial Legislature without the previous "sanction of the Governor General And further that a schedule of the more "important rules securing to the Inspector General of Police control of the "administration of the Police Force, shall be drawn up which rules shall not "be alterable without the consent of the Governor")

The same is agreed to

Paragraph 89 is again read as amended

The further consideration of paragraph 89 is postponed

Paragraphs 90 to 92 are again read

It is moved by the Marquess of Zetland the Earl of Derby the Lord Hardinge of Penshurst the Lord Hutchison of Montrose Major Cadogan, and the Lord Eustace Percy Paragraph 90 page 13 line 6 leave out ('police force itself') and to insert ("circle of the particular officers of "the police force concerned")

The same is agreed to

It is moved by the Marquess of Zetland, the Earl of Derby the Lord Hardinge of Penshurst the Lord Hutchison of Montrose Major Cadogan, and the Lord Eustace Percy Paragraph 90 page 13 line 11 after ('reconstitute') to insert ("The problem is a difficult one and though, at "the moment it is perhaps only of immediate importance in the Province "of Bengal and to a lesser extent in the provinces which border on Bengal, "terrorism and revolutionary conspiracy have not been confined to those "territories nor consequently is the necessity for efficient counter revolution-"ary measures limited to them Bengal, however as has been proved to "us by the evidence we have received has a particularly long and disquieting "record of murder and outrage, of which Indians and Europeans have "equally been the victim It has also shown in a marked degree a rise "or fall in such terrorist crime according as the hands of the authorities have "been weakened or strengthened, and as precautionary and special measures "have been relaxed or enforced")

The further consideration of the said amendment is postponed till to morrow

The further consideration of Paragraph 90 to 92 is postponed

Ordered that the Committee be adjourned till to morrow at half past Two o'clock

Die Mercurii 27° Junii 1934

Present :

LORD ARCHBISHOP OF CANTERBURY
MARQUESS OF SALISBURY.
MARQUESS OF ZETLAND
MARQUESS OF LINLITHGOW.
MARQUESS OF READING
EARL OF DERBY
EARL OF LYTTON
EARL PEEL
LORD MIDDLETON
LORD KER (M LOTHIAN)
LORD HARDINGE OF PENSHURST
LORD SNELL
LORD RANKEILLOUR
LORD HUTCHISON OF MONTROSE
MR. ATTLEE
MR BUTLER.
MAJOR CADOGAN
MR. COCKS
SIR REGINALD CRADDOCK
MR DAVIDSON
MR FOOT
SIR SAMUEL HOARE
MR MORGAN JONES
SIR JOSEPH NALL.
LORD EUSTACE PERCY.
SIR JOHN WARDLAW MILNE
EARL WINTERTON

THE MARQUESS OF LINLITHGOW in the Chair

The Order of Adjournment is read

The Proceedings of yesterday are read

Paragraphs 90 to 92 are again considered

The motion of the Marquess of Zetland, the Earl of Derby the Lord Hardinge of Penshurst, the Lord Hutchison of Montrose Major Cadogan, Sir Austen Chamberlain, and the Lord Eustace Percy Paragraph 90, page 43, line 11 after ("reconstitute,") to insert ("The problem is a difficult one and though at the moment it is perhaps only of immediate importance in the Province of Bengal and to a lesser extent in the provinces which border on Bengal terrorism and revolutionary conspiracy have not been confined to those territories nor consequently is the necessity for efficient "counter revolutionary measures limited to them Bengal, however, as "has been proved to us by the evidence we have received has a particularly "long and disquieting record of murder and outrage, of which Indians and "Europeans have equally been the victims It has also shown in a marked "degree a rise or fall in such terrorist crime according as the hands of the "authorities have been weakened or strengthened and as precautionary "and special measures have been relaxed or enforced") is again considered

After discussion the further consideration of the said amendment is postponed

The following amendments to Paragraphs 90 to 92 are laid before the Committee .—

The Marquess of Zetland, the Earl of Derby the Lord Hardinge of Penshurst, the Lord Hutchison of Montrose Major Cadogan, and the Lord Eustace Percy to move Paragraph 91, page 43 lines 12 and 13, to leave out lines 12 and 13 inclusive

The Lord Hutchison of Montrose to move Paragraph 1, page 43, lines 28 and 29, to leave out from ("that") in line 28 to ("and") in line 29 and to insert ("the practice is that in a secret service case the "names of agents are not disclosed to Ministers")

All amendments are to the Draft Report (*vide infra* paras 1—42B, pp 470—*491*; and *vide supra* paras 43—453, pp 64-253) and NOT to the Report as published. Vol. 1, Part 1).

A Key is attached (see pp. 521—544), showing on which pages of the Proceedings amendments to each paragraph can be found.

Sir John Wardlaw-Milne to move Paragraph 91, page 43, line 33, to leave out from (" order,") to the end of the line and to insert (" must " be understood as themselves adopting ").

The Earl of Lytton to move Paragraph 91, page 43, lines 36 to 38, to leave out from the second (" agents ") in line 36 to the end of the sentence and to insert (" themselves would not feel secure that their " identity might not be revealed ").

The Marquess of Zetland, the Earl of Derby, the Lord Hardinge of Penshurst, the Lord Hutchison of Montrose, Major Cadogan and the Lord Eustace Percy to move Paragraph 92, pages 43 and 44, to leave out paragraph 92 and to insert the following new paragraph:

(" 92 In the circumstances set out above we are convinced that it should be made plain that the control of the organisation which exists or may hereafter exist for the purpose of combating the terrorist movement is in the hands of the Governor General at the centre and of the Governors in the provinces To secure the object which we have in view we recommend that the Central Intelligence Bureau be placed under the control of the Governor General as part of the Political and Foreign Department and that in any province in which a special branch of the Police force exists or may hereafter be brought into being the Inspector General shall take his orders direct from the Governor as the agent of the Governor General in all matters affecting the work of the special branch in whatever branch of police administration such matters may arise We realise that in such circumstances the Minister in charge of the portfolio of Law and Order might be unwilling to answer in the Legislature for action taken on the initiative of the Governor and in that event we recommend that it shall be open to the Governor to appoint some person selected at his discretion to act as his spokesman in the Legislature ")

The Earl of Lytton to move Paragraph 92 pages 43 and 44 to leave out paragraph 92 and to insert the following new paragraph

(" 92 The existence of terrorist crime is a special disease which calls for special treatment It necessitates departures from the ordinary law and the enactment of special legislation such as the Bengal Criminal Law Amendment Act The Special Branch is an essential feature of the machinery for combating terrorist activities and as such we consider that it requires special treatment We therefore recommend that this small and exceptional service where it exists should be a reserved service responsible to the Governor alone ")

Sir John Wardlaw Milne to move Paragraph 92 page 43 line 45, after (" Province ") to insert (" (who should continue to have direct access to him) ")

Mr Attlee Mr Cocks, Mr Morgan Jones, and the Lord Snell to move Paragraph 92, page 44 lines 10 to 13, to leave out from (" enforced ") in line 10 to (" We ") in line 13

The consideration of the said amendments is postponed

After discussion the further consideration of paragraphs 90 to 92 is again postponed

Paragraph 93 is again read

It is moved by the Marquess of Zetland, the Earl of Derby, the Lord Hardinge of Penshurst, the Lord Hutchison of Montrose, Major Cadogan, and the Lord Eustace Percy. Page 44, lines 40 to 42, to leave out from (" notice ") in line 40 to the end of the paragraph.

The amendment, by leave of the Committee, is withdrawn

Paragraph 93 is again read.

The further consideration of paragraph 93 is postponed

Paragraph 94 is again read

It is moved by the Earl of Derby Page 45, line 20, to leave out ("assent, express or implied,") and to insert ("knowledge")

The same is agreed to

It is moved by the Earl of Derby Page 45, lines 20 to 25, to leave out from ("concerned") in line 20 to the end of the sentence

The same is agreed to

Paragraph 94 is again read as amended

The further consideration of paragraph 94 is postponed

Paragraph 95 is again read

It is moved by the Marquess of Zetland, the Earl of Derby, the Lord Hardinge of Penshurst the Lord Hutchison of Montrose, Major Cadogan, and the Lord Eustace Percy Page 46 lines 20 to 23, to leave out from the beginning of line 20 to the end of the paragraph and to insert ("We recom-
"mend therefore that it shall be specifically laid down in the Constitution
"Act that the rules of business shall contain a provision laying upon Ministers
"the duty of bringing to the notice of the Governor any matter under con-
"sideration in their Departments which involves or is likely to involve any
"of his special responsibilities and requiring Secretaries to Government
"to bring to the notice of the Minister and of the Governor any matters of
"the same kind")

The same is agreed to

Paragraph 95 is again read as amended

The further consideration of paragraph 95 is postponed

Paragraph 96 is again read

It is moved by the Lord Hutchison of Montrose the Lord Hardinge of Penshurst and Major Cadogan Page 46 line 27 after ("the") to insert ("number,") line 34 to 48 to leave out from ("administration,") in line 34 to the end of the paragraph

The amendments by leave of the Committee are withdrawn

Paragraph 96 is again read

The further consideration of paragraph 96 is postponed

Paragraphs 97 and 98 are again read and postponed

Paragraph 99 is again read

It is moved by the Lord Eustace Percy Page 48 line 8 to 21 to leave out from ("Act") in line 8 to the end of the paragraph and to insert ("We agree
"that, in addition to the power of issuing emergency or finances to which we
"refer later the Governor should have this reserve power of legislation
"We agree also with the proposed change in nomenclature since we can see
"no possible advantage in describing an Act as an Act of the Legislature
"when the Legislature has declined to enact it But we go further We agree
"with the members of the British Indian Delegation in thinking it undesirable
"that the Governor should be required to submit a proposed Governor's Act
"to the Legislature before enacting it We do not indeed share the fear,
"which we understand the British Indian Delegates to entertain that the
"Governor might use this procedure for the purpose of seeking support in the
"Legislature against his Ministers Our objection rather is that the proposed
"procedure will be a useless formality in the only circumstance in which a
"Governor's Act could reasonably be contemplated If the obstacle to any
"legislation which the Governor thinks necessary to the discharge of his
"special responsibilities lies, not in the unwillingness of the Legislature to
"pass it, but in the unwillingness of his Ministers to sponsor it, his remedy

'lies, not in a Governor's Act, but in a change of Ministry. If, on the other 'hand, the obstacle lies in the unwillingness of the Legislature, there can 'clearly be no point in submitting the proposed legislation to it, and to do so 'might merely exacerbate political feeling. Since, however, there may be 'intermediate cases where an opportunity may usefully be given to the 'Legislature for revising a hasty or unconsidered decision previously made or 'threatened, we think that the Governor should have the power (which we 'presume he would, in any case, possess) to notify the Legislature by Message 'of his intention, at the expiration of, say, one month, to enact a Governor's 'Act, the terms of which would be set out in the Message. It would then be 'open to the Legislature, if it thought fit, to present an address to the Gover-'nor at any time before the expiration of the month, praying him only to enact 'the proposed Act with certain amendments, which he could then consider 'upon their merits; or it might even think fit to revise its former decision 'and to forestall the Governor by itself enacting legislation in the sense 'desired by "him.").

The same is agreed to.

Paragraph 99 is again read as amended.

The further consideration of paragraph 99 is postponed.

Paragraph 100 is again read.

It is moved by the Lord Eustace Percy. Page 48, to leave out paragraph 100.

The same is agreed to.

Paragraph 101 is again read.

It is moved by the Lord Eustace Percy. Page 49. to leave out from the beginning of the paragraph to ("we") in line 36.

The same is agreed to.

It is moved by Major Cadogan. Page 49, lines 36 to 40, to leave out from ("alone") in line 36 to the end of the paragraph.

The amendment by leave of the Committee is withdrawn.

It is moved by Mr. Attlee, Mr. Cocks, Mr. Morgan Jones, and the Lord Snell. Page 49, lines 39 and 40, to leave out from ("We") in line 39 to the end of the paragraph and to insert ("consider that all Governor's Acts should be laid "before Parliament and that the Governor, before legislating, should have "the concurrence of the Governor-General").

The same is agreed to.

Paragraph 101 is again read as amended.

The further consideration of paragraph 101 is postponed.

Paragraph 102 is again read.

It is moved by the Lord Hardinge of Penshurst. Page 50, line 3, to leave out ("if it should be thought") and to insert ("we agree").

The same is agreed to.

It is moved by the Lord Hardinge of Penshurst. Lines 4 and 5, to leave out from ("obtained.") in line 4 to the end of the paragraph.

The same is agreed to.

Paragraph 102 is again read as amended.

The further consideration of paragraph 102 is postponed.

Paragraph 103 again read and postponed.

Paragraph 104 is again read.

It is moved by the Marquess of Linlithgow. Page 50, line 44, after ("resolution") to insert ("in which case it will cease to operate forthwith")

The same is agreed to.

It is moved by the Lord Hardinge of Penshurst. Page 51, line 5, after ("responsibility") to insert ("but with the concurrence of the Governor-" General").

The same is agreed to.

Paragraph 104 is again read as amended.

The further consideration of paragraph 104 is postponed.

Paragraph 105 is again read.

It is moved by the Marquess of Linlithgow on behalf of Sir Austen Chamberlain. Page 51, line 12, to leave out from ("Act,") to ("all") and to insert ("to assume to himself by Proclamation"); line 21, to leave out ("obsolete") and to insert ("unnecessary"), and line 35, to leave out ("to") and to insert ("of")

The same are agreed to.

Paragraph 105 is again read as amended

The further consideration of paragraph 105 is postponed.

Paragraph 106 is again read and postponed.

Paragraphs 107 to 115 are again read.

The following amendments are laid before the Committee:—

Sir Austen Chamberlain to move. Paragraph 107, page 52, line 8, to leave out ("sense") and to insert ("measure").

Sir Austen Chamberlain to move. Paragraph 108, page 52, line 31, to leave out ("sense") and to insert ("form").

Mr. Attlee, Mr Cocks, Mr Morgan Jones, and the Lord Snell to move. Paragraph 109, pages 52 and 53, to leave out paragraph 109.

Sir John Wardlaw Milne to move. Paragraph 109, page 52, line 33, to page 53, line 2, to leave out from ("lines,") in line 33, page 52, to ("that") in line 2, page 53, and to insert ("nothing in the proposed "directions of instructions should operate to prevent the growth of "parties and the formation of homogeneous Ministries and we think").

Sir John Wardlaw Milne to move. Paragraph 109, page 53, line 6, to leave out ("many years to come") and to insert ("a time")

Mr Attlee, Mr Cocks, Mr Morgan Jones, and the Lord Snell to move. Paragraph 111 page 53 lines 37 and 38, to leave out from ("Ministry") in line 37 to ("seems") in line 38

Mr Attlee, Mr Cocks, Mr. Morgan Jones, and the Lord Snell to move. Paragraph 112, page 54, line 18, to leave out ("such as we have "described,").

Sir John Wardlaw Milne to move Paragraph 112, page 54, line 20, to leave out ("assert its authority") and to insert ("maintain its "influence")

Sir Austen Chamberlain to move Paragraph 112, page 54, line 20, to leave out ("assert its authority") and to insert ("acquire sufficient "authority"); and line 26, to leave out ("Constitution") and to insert ("Constitutions").

The consideration of the said amendments is postponed.

It is moved by the Lord Eustace Percy, pages 52 to 57, to leave out paragraphs 107 to 115 inclusive and to insert the following new paragraphs:—

("107 In the preceding paragraphs we have approved the proposal of the White Paper to entrust certain wide discretionary powers to the Governor, and we have recommended that, in certain respects, those powers should be strengthened and extended. We should not wish to pass from this subject without some general review of the broad considerations which have led us to these conclusions. The dominant *Vital importance of Executive in India.*

consideration is the one which we have already emphasised: the vital importance in India of a strong Executive. It has seemed to us in the course of our discussions with the British Indian delegates that in their anxiety to increase the prerogatives of the Legislature, they have been apt to overlook the functions of the Executive, an attitude not perhaps surprising in those to whom at the present time the Legislature offers the main field of political activity. But if the responsibility for government is henceforward to be borne by Indians themselves they will do well to remember that to magnify the Legislature at the expense of the Executive is to diminish the authority of the latter and to weaken the sense of responsibility of both. The function of the Executive is to govern and to administer, that of the Legislature to vote supply, to criticize, to educate public opinion, and to legislate, and great mischief may result from attempts by the latter to invade the executive sphere. The belief that parliamentary government is incompatible with a strong Executive is no doubt responsible for the distrust with which parliamentary institutions have come to be regarded in many parts of the world. The United Kingdom affords a sufficient proof that a strong Executive may co-exist even with an omnipotent Parliament if the necessary conditions are present, and the strength of the Executive in this country may, we think, be attributed with not more justice to the support of a disciplined party than to the inveterate and cherished tradition of Parliament that the prerogatives of the Legislature are not to be jealously or factiously asserted in such a way as to prevent the King's Government from being carried on. 'His Majesty's Opposition' is not an idle phrase, but embodies a constitutional doctrine of great significance."

Difficulties created by communal representation in Ministers.

"108. It is a commonplace that this tradition is as yet unknown in India and that Indian Ministries have not hitherto been able to rely on the support of a disciplined party. The Statutory Commission, in surveying the work of the existing Provincial Constitution, observed that Governors, in choosing their Ministers have had an exceptionally difficult task. It could seldom be predicted what following a Minister would have in the Legislature, quite apart from the fact that his acceptance of office was often followed, owing to personal rivalries, by the detachment of some of his previous adherents. It has been urged upon us by the members of the British Indian Delegation that these difficulties will tend to disappear under responsible government. We hope that it will be so, and neither we nor the Statutory Commission would have recommended that the experiment should be made if we were not satisfied that under no other system can Indians come to appreciate the value of the tradition of which we have spoken. But it must be remembered that in two respects the difficulties of Provincial Ministries in the future may be greater than in the past. In the first place they will not in future be able to rely upon the official bloc which, in the words of the Statutory Commission 'has helped to decrease the instability of the balance of existing groups in the Legislature and has made the tenure of office of Ministers far less precarious.' In the second place, each Ministry will, as we have already pointed out, be a composite one. The Legislatures will be based on a system of communal representation, and the Governor will be directed by his Instrument of Instructions to include in his Ministry, so far as possible, members of important minority communities. A Ministry thus formed must tend to be the representative, not, as in the United Kingdom, of a single majority Party or even of a coalition of Parties, but of minorities as such. Moreover, the system of communal representation may also tend to render less effective the weapon to which, under most parliamentary constitutions, the executive resorts when confronted by an obstructive legislature, the weapon of dissolution, for under such a system even a general election may well produce a legislature with the same complexion as its predecessor."

A statutory permanence of tenure for Ministry inconsistent with Parliamentary government.

"109. It is unfortunately impossible to provide against these dangers by any paper enactment regulating the relations between the Ministry and the Legislature. The British Indian delegates laid great stress upon the collective responsibility of the Provincial Ministries, and in their Joint Memorandum they urged that the Instrument of Instructions should contain a definite direction to the Governor that the collective responsibility of Ministers is to be introduced forthwith. This seems to us to confuse cause and effect. The collective responsibility of Ministers to the Legislature is not a rule of law to be put into operation at discretion, but a constitutional convention which only usage and practice can define or enforce; and, since that convention is the outcome and not the cause of Ministerial solidarity, it is as likely to be hindered as helped by artificial devices which take no account of the realities of the situation. It is noticeable, for example, that, in constitutions like that of France where the principle of collective responsibility is laid down in the constitution, the effect seems to have been merely to introduce the formality of a joint resignation as a preliminary to every reconstruction of a Ministry. Our attention has also been drawn to the possibility of providing that a Ministry, after receiving a vote of confidence from the Legislature on its appointment by the Governor, should remain in office for a fixed period unless previously dismissed by him. The objection to this proposal, of which there are obvious possible variants, is that the existence of a Ministry which had not in fact the confidence of the Legislature could, in practice, be made impossible. There is every reason why Ministries in India should refuse to treat a hostile vote, even on a demand for supply, as necessarily entailing resignation; it may even be desirable that a Ministry should only resign on a direct vote of no confidence; but under a system of parliamentary government there is no effective method of securing statutory permanence of tenure to a Ministry faced by a consistently hostile Legislature. All that the framers of a constitution can do in this matter is to refrain from any paper provisions which might tend indirectly to prejudice the development of a sound relationship between Ministry and Legislature. We think that the wording of the Governor's Instrument of Instructions proposed in the White Paper in regard to the selection of his Ministers should be re-examined with a view to giving greater latitude to the Governor. It is our earnest hope that, in the future, parties may develop in the Provincial Legislatures which will cut across communal lines, and the proposed wording of the Instrument of Instructions as it now stands might, if literally obeyed, operate to prevent both the growth of such parties and the formation of homogeneous Ministries. We recognise that nothing ought to be done at the present time which would excite suspicion or distrust in the mind of the minorities, but in this, as in other matters, we think that the course of wisdom is to give the Governor the widest possible latitude."

Governor's reserve powers a guarantee for development of responsible government

"110. It follows from these considerations that the only way of strengthening the Provincial Executives in India is to confer adequate discretionary powers on the Governor. These powers are defined in the White Paper, we think rightly, as being the Governor's responsibilities, because it is on him that the corresponding special powers must, in the nature of things, be conferred, but the responsibilities are defined and the powers conferred, not for the purpose of superseding Ministers or enabling them to escape responsibilities which properly belong to them, but primarily in order that the executive as a whole may possess the authority which experience shows to be essential to the success of parliamentary government. To none of the Governor's special responsibilities do these considerations apply with more force than to that relating to the Public Services; for the existence of an efficient and contented civil service, immune from political interference and free

from political partialities, is the indispensable condition, not only for the effective exercise of the Governor's special powers, but also for the strength of the executive as a whole. On this subject we shall have certain further proposals to make in a later part of our Report. Nor is the case different with the Governor's extraordinary power, if the constitutional machinery should break down, to assume to himself (subject to the overriding authority of Parliament) any function of government that may appear to him necessary, even to the extent of suspending the Legislature and administering the Province without it. Like the power of dissolution, which it supplements, this power is designed to strengthen the executive as a whole. We hope and are willing to believe, that it will never become necessary to put this power into operation, but its existence in the background, together with the whole body of the Governor's reserve powers, may well prove the most effective guarantee for the development of a genuine system of responsible government.")

The said amendment is agreed to.

New paragraphs 107 to 110 are again read.

The further consideration of paragraphs 107 to 110 is postponed.

Ordered, that the Committee be adjourned to Friday next at half-past Ten o'clock.

Die Veneris 29° Junii 1934

Present :

Marquess of Salisbury.
Marquess of Zetland.
Marquess of Linlithgow.
Marquess of Reading.
Earl of Derby.
Earl of Lytton
Earl Peel.
Viscount Halifax.
Lord Middleton.
Lord Ker (M Lothian)
Lord Hardinge of Penshurst.
Lord Snell.
Lord Rankeillour.

Mr. Attlee.
Mr. Butler.
Major Cadogan
Mr. Cocks.
Sir Reginald Craddock
Mr Davidson
Mr. Foot.
Sir Samuel Hoare.
Sir Joseph Nall.
Lord Eustace Percy
Sir John Wardlaw-Milne.
Earl Winterton

The Marquess of Linlithgow in the Chair

The Order of Adjournment is read.

The Proceedings of Wednesday last are read.

Paragraph 116 is again read

It is moved by the Marquess of Linlithgow. Page 57, line 26 to leave out (" not ")

The same is agreed to

Paragraph 116 is again read as amended.

The further consideration of paragraph 116 is postponed

Paragraph 117 is again read and postponed

Paragraph 118 is again read.

It is moved by Mr. Attlee and Mr. Cocks Pages 57 and 58, to leave out paragraph 118 and to insert the following new paragraph

(" 118. In our view, Second Chambers as proposed in the White Paper and composed largely of landowners and reactionary elements opposed in general to the wishes of the mass of the people, are undemocratic We are in favour of one Chamber only We should like, on this subject, to quote with approval the opinion of some Members of the Indian Statutory Commission

All amendments are to the Draft Report (*vide infra*, paras 1—428, pp 470—491; and *vide supra* paras. 43—453, pp. 64—253) and NOT to the Report as published. (Vol I, Part I)

A Key is attached (see pp. 521—544), showing on which pages of the Proceedings amendments to each paragraph can be found

"It has generally been proposed in evidence before the Joint Conference to constitute Second Chambers disproportionately representative of vested interests. They fear that such Chambers would be regarded as an undemocratic instrument of Government, and that ceaseless conflict between the two Houses would result. They think that this danger will be a real one, however, the Second Chambers may be formed. Whilst a Second Chamber will not be a substitute for the Governor's powers, its existence may be used as an argument for modifying the Governor's powers before this is desirable, and it may support the Lower House against the Governor and so increase rather than prevent friction between him and the Legislature. So long as Ministers are secured in the support of the Lower House, and so obtain the funds which they require, the Second Chamber can exercise little control on the administrative side, and it is here that the influence of a Legislature is most required."

"In the Joint Memorandum submitted to us by the British Indian Delegation they pointed out that only one of their number was in favour of Second Chambers in the three Provinces of Bengal, Bihar, and the United Provinces, while another Member of the Delegation considered that only in the case of the United Provinces was a Second Chamber necessary. All the others were totally opposed to the creation of Second Chambers in Bengal, Bihar, and the United Provinces. There are two other arguments against Second Chambers which must be given due weight. The first is the additional cost on Indian revenues, which would be considerable and out of all proportion to the benefit, if any, to be gained; and the second is the drain on the personnel of the Province which would be made by creating so large a number of seats which must be filled.")

Objected to.

On Question:

Contents (2)	Not Contents (19)
Lord Snell	Marquess of Salisbury
Mr Attlee	Marquess of Zetland
	Marquess of Linlithgow
	Marquess of Reading
	Earl of Derby
	Earl of Lytton
	Viscount Halifax
	Lord Middleton
	Lord Ker (M. Lothian)
	Lord Hardinge of Penshurst
	Lord Rankeillour
	Mr Butler
	Major Cadogan
	Sir Reginald Craddock
	Mr Davidson
	Mr Foot
	Sir Samuel Hoare
	Lord Eustace Percy
	Sir John Wardlaw-Milne

The said amendment is disagreed to.

It is moved by the Lord Eustace Percy, the Earl of Derby, and Major Cadogan. Page 57, line 41, after ("Provinces") to insert ("We see no "reason for giving an exceptional power to the Provincial Legislatures to

"amend the Constitution in this one respect, and we think that the abolition "or creation of a Legislative Council should, instead, be included among the "questions on which, as we shall later propose in our Report,[1] a Provincial "Legislature shall have a special right to present an address to the Governor "for submission to His Majesty and to Parliament".)

The same is agreed to.

It is moved by the Lord Eustace Percy, the Earl of Derby, and Major Cadogan. Page 57, line 42, to leave out ("this") and to insert ("these alterations").

The same is agreed to.

It is moved by the Lord Eustace Percy, the Earl of Derby, and Major Cadogan. Page 58 lines 2 to 9, to leave out from ("Report[2].") in line 2 to the end of the paragraph

The same is agreed to.

Paragraph 118 is again read as amended.

The further consideration of paragraph 118 is postponed.

Paragraph 119 is read.

It is moved by the Marquess of Linlithgow on behalf of Sir Austen Chamberlain. Page 58, line 22, after ("Government") to insert ("themselves"); line 23, to leave out ("themselves").

The same is agreed to

It is moved by Sir John Wardlaw Milne Page 58, lines 32 to 35, to leave out from ("Classes") in line 32 to ("negotiations") in line 35 and to insert ("subsequently")

The amendment by leave of the Committee, is withdrawn.

It is moved by the Marquess of Zetland. Page 58, line 36, to leave out ("the representatives of the caste Hindus and") and to insert ("a small "group of persons claiming to speak for the Caste Hindus and certain "representatives")

The amendment, by leave of the Committee, is withdrawn.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 58, line 36, to leave out the first ("the").

The same is agreed to

Paragraph 119 is again read as amended.

The further consideration of paragraph 119 is postponed.

Paragraph 120 is read.

It is moved by the Lord Ker (M. Lothian), the Marquess of Reading, and Mr Foot. Page 59, lines 12 to 14 to leave out from ("Award;") in line 12 to ("be") in line 14 and to insert ("though the latter gave the Depressed "Classes electors a vote in the general constituencies as well as for the special "seats reserved for themselves; but whereas under the communal award the "Depressed Classes electors were to vote separately for the seats reserved for "them as well as jointly with other Hindus in the general constituencies, "under the Poona Pact there will now only".)

The same is agreed to.

[1] *Infra*, paras. 356 and 357.
[2] *Infra*, page 73.

Paragraph 120 is again read as amended.

The further consideration of paragraph 120 is postponed.

Paragraph 121 is read.

It is moved by the Marquess of Zetland. Page 59, to leave out paragraph 121, and to insert the following new paragraph : -

("121. We have found ourselves in some difficulty in dealing with this aspect of the problem, owing to the declaration of the Government, referred to in paragraph 119, that they would entertain no suggestions for the alteration of their Award which had not the support of all the parties affected and we might well have felt justified in the circumstances in holding that the matter was one which had been placed beyond our purview. This course was rendered difficult however, by the representations of those who desired to give evidence before us, as to its effect upon the development of responsible self-government particularly in the Presidency of Bengal ; and by deciding, as we did, that such evidence was admissible, we automatically brought the matter within the scope of our enquiry. The original Award was strongly criticised by more than one witness who appeared before us on the ground that it must operate inequitably in the case of Bengal ; and it was urged that the disadvantage at which the caste Hindus would be placed under it would be greatly intensified as a result of the adoption of the Poona Pact Particular objection was taken to the reservation of seats and the employment of separate communal electorates in a province in which the community in whose interest the reservation is made forms a majority of the population. We cannot but be impressed by the force of this contention and we think it desirable that we should set forth our views as to the purpose for which the reservation of seats and the device of separate electorates should be employed.

"The system was introduced at the time of the Minto-Morley Reforms of 1909 with a view to safeguarding the interests of minorities and in particular the Moslem Minority : and while, on general grounds, we may deplore the necessity for such a device we have reluctantly come to the conclusion that in existing circumstances in India the necessity persists. We do not, therefore, propose to elaborate the objections which may be urged against the system as a whole. But it is one thing to concede separate communal electorates for the purpose of giving Minorities reasonable representation in the various legislatures ; it is an entirely different thing to employ the system for the purpose of conferring upon a majority community in any particular province a permanent majority in the legislature unalterable by any appeal to the electorate. Such a course has never hitherto been adopted It was considered and rejected by the Statutory Commission, who declared that a claim submitted to them which in Bengal and the Punjab would give to the Moslem community a fixed and unalterable majority in the *general constituency* seats, was one which they could not entertain ; 'it would be unfair', they wrote, 'that Muhammadans should retain the very considerable weightage they now enjoy in the six provinces and that there should at the same time be imposed, in face of Hindu and Sikh Opposition, a definite Moslem majority in the Punjab and in Bengal unalterable by any appeal to the electorate.' This is the position which will arise if the distribution of seats proposed in the White Paper for the Legislative Assembly of Bengal, is given effect to. The Legislative Assembly is to consists of 250 seats. Of these 51 are allotted to Special interests, leaving 199 general seats. Of these general seats 119 are to be reserved for Moslems leaving 80 for the Hindus. But under the terms of the Poona Pact 30 of these 80 seats are to be reserved

for the so-called depressed classes, hereafter to be known as the Scheduled Castes, and the number of general seats open to the Caste Hindus is thus reduced to 50. It is probable that in the case of the 20 special interest seats which are open to Moslems and Hindus, the great majority will fall to the Hindus; but even if the Caste Hindus were to secure the whole 20 seats they would still be arbitrarily limited by Statute to 70 seats in a Legislative Assembly of 250. To restrict in this way the possible share in the government of the province, of the community which plays a predominant part in its intellectual and political life, seems to us to be both unwise and unfair. Before making our recommendations we have one further comment to make on the effect in Bengal of the Poona Pact. The object of reserving seats for the depressed classes should be in our view, to secure to the real depressed classes—that is to say the Sudras, or outcastes—a voice in the legislature. We believe that in Bengal the number of such people is small; and we fear that the result of extending the list of scheduled castes as proposed in the White Paper, will be to defeat the object in view, for it will not then be members of the real depressed classes who will be returned for the Scheduled Caste Seats, but members of the powerful Namasudra and Rajbansi Castes who experience no difficulty in getting returned to the legislature even now without any reservation of seats at all, and whose interests are as much opposed to those of the untouchables as are the interests of the highest castes themselves.

" We have now to submit our recommendations. With the Moslems in a majority in any particular province, we think that no reservation of seats for them ought to be necessary, and the logical solution of the problem would be to make no provision for a separate Moslem electorate but to throw the whole of the *general* seats open to Moslems and Hindus, so that candidates whether Moslems or Hindus would have to stand on their merits and make their appeal to the electors at large. We realise, however, that in this case that which is desirable is not necessarily expedient and we feel constrained to suggest a less radical alteration. We therefore, recommend as a general principle that in any province in which seats are reserved for a community which constitutes a majority of the population, a decision whether election in the case of the general seats, including those reserved for the majority community, should be by separate or by joint electorate, should rest with the minority.

" There remains the question of the Poona Pact. We need not recall the circumstances in which the so-called pact was concluded. We do not think that those who were parties to it can be said to have been accredited representatives of the caste Hindus or to have possessed any mandate to effect a settlement. We think that the arrangements for the representation of the depressed classes contained in the original award of His Majesty's Government were preferable and we recommend their adoption. In the appropriate place we give tables setting forth the distribution of seats in the legislatures in accordance with our proposals.

" Apart from the general alteration in the distribution of seats due to a return to the original Communal Award in the case of the Depressed Classes, our proposals involve some further redistribution of the seats in the case of the Legislative Assembly of Bengal and we think it desirable to explain here the reasons for the alterations which we propose. Under the proposals contained in the White Paper the Assembly in Bengal will consist of 250 members. Of these 250 seats 51 will be reserved for the representation of special interests, leaving 199 general territorial constituencies. Of these general seats 119 are to be reserved for Moslems leaving 80 only for the Hindu community including the Depressed Classes. Since the population ratio is approximately 55 per cent. Moslem and 45 per cent. Hindu it follows that so far as the general territorial

constituencies are concerned the Moslems are being given ten seats more and the Hindus ten seats less than they would be entitled to on a population basis. It is true that this disparity will almost certainly be lessened as a result of the election to the special interest seats which will be open to Moslems and Hindus. These number 20 and various estimates of the proportions of them which will be won by Moslems and Hindus respectively were submitted to us in the course of the evidence which was laid before us. We think that the Moslems may be expected to secure six of the 20 seats which would bring their total representation up to 125 seats as compared with 94 seats in the case of the Caste Hindus and the Depressed Classes taken together. But even supposing that the Moslems were to secure none of the 20 seats they would still fill 119 seats as compared with 110 which is the maximum number of seats open to the Caste Hindus and the Depressed Classes combined under the proposals of the White Paper.

"We have already stated our objections to conferring upon a community by statute a permanent majority unalterable by any appeal to the electorate. When the relative position of the two communities in Bengal in everything except actual numbers is taken into account, it will be seen that the reasons against placing the Hindu community in a position of permanent statutory inferiority in the Legislature are particularly strong. Under British rule the Hindus have played an enormously predominant part in the intellectual, the cultural, the political, the professional and the commercial life of the province. More than 64 per cent of those who are literate in Bengal are Hindus; nearly 80 per cent of the students attending High Schools, nearly 83 per cent of those in Degree classes, and nearly 86 per cent of the post-graduate and research students are Hindus. A similar preponderance is found in the case of the professions and in the case of Banking, Insurance and Exchange. In all previous Constitutions the significance of these facts has been admitted. Under the Lucknow Pact (an agreement between Moslems and Hindus arrived at in 1916) the Moslems of Bengal were allotted no more than 40 per cent of the seats to be filled by Indians by election, and under the Constitution now in force there are reserved for them only 46 per cent of the general territorial constituencies.

"In the circumstances set forth above we should have felt justified, had the slate upon which we have to write been a clean one, in recommending that in Bengal all general territorial constituencies should be open to candidates of both communities without reservation of seats or separate electorates (except in the case of the 10 seats reserved for the Depressed Classes). But as we have already pointed out the slate upon which we have to write is very far from being a clean one and we have felt obliged to steer a middle course between the claims of the Hindus and the expectations which have been aroused in the mind of the Moslems. Broadly speaking as will be seen from an examination of the Appendix, the effect of the changes which we propose in the scheme of the White Paper will be as follows:—

(1) To give to Moslems or to Hindus, whichever is the minority community in any particular province, the right to decide whether election in the case of the general territorial constituencies shall be by separate or by joint electorates;

(2) In the case of Bengal to allot the general territorial seats between Moslems and Hindus on a population basis; and

3 To give to the Depressed Classes in all provinces the representation given to them by the Government under their original Award before it was modified by the Poona Pact.

There is one other point to which we wish to refer. Under the provisions of the White Paper* no change in the distribution of seats under the Communal Award is to be made during the first ten years during which the Constitution is in operation, and thereafter no proposals for modification will be taken into consideration which do not carry with them the assent of the communities affected. We think that it is unlikely that such assent will be given by a community entrenched in a position of statutory superiority in the legislature and we recommend, therefore, that it should be open to either community at the expiration of ten years to petition Parliament to modify the Award.")

* Paragraph 19 of the Introduction to the White Paper.

Appendix.

COMPOSITION OF PROVINCIAL LEGISLATIVE ASSEMBLIES (LOWER HOUSES).

Province (Population in Millions shown in Brackets)	General	Depressed Classes	Representatives from Backward Areas	Sikh	Muhammadan	Indian Christian	Anglo Indian	European	Commerce and Industry, Mining and Planting, Special	Land holders, Special	University, Special	Labour, Special	Total
Madras (45 6)	134 (including 6 women)	18	1	0	29 (including 1 woman)	9 (including 1 woman)	2	3	6	6	1	6	215
Bombay (18 0)	109 (including 5 women)	10	1	0	30 (including 1 woman)	3	2	3	7	2	1	7	175
Bengal (50 1)	80 (including 2 women)	10	0	0	109 (including 2 women)	2	4 (including 1 woman)	11	19	5	2	8	250
United Provinces (48 4)	132 (including 4 women)	12	0	0	66 (including 2 women)	2	1	2	3	6	1	3	228
Punjab (23 6)	43 (including 1 woman)	0	0	32 (including 1 woman)	86 (including 2 women)	2	1	1	1	[illegible]	1	3	175
Bihar (32 4)	83 (including 3 women)	6	7	0	40 (including 1 woman)	1	1	2	4	4	1	[illegible]	152
Central Provinces (with Berar) (15 5)	77 (including 3 women)	[illegible]	1	0	14	0	1	1	2	3	1	2	112
Assam (8 6)	44 (including 1 woman)	4	[illegible]	0	34	1	0	1	11	[illegible]	0	4	108
North-West Frontier Province (2 4)	9	0	0	3	36	0	0	0	0	2	0	0	50
Sind (3 9)	19 (including 1 woman)	0	[illegible]	0	34 (including 1 women)	0	0	2	2	2	0	1	60
Orissa (6 7)	46 (including 2 women)	3	2	0	4	1	0	0	1	2	0	1	60

1. **Seats** in the Legislative Assemblies in the Governors' provinces will be allocated as shown in the above table.

2. **Election** to the seats allotted to Moslems, Europeans and Sikhs will ordinarily be by voters voting in separate communal electorates covering between them the whole area of the province, apart from any portions which may in special cases be excluded from the electoral area as *backward*. In any province, however, in which a Moslem or Hindu minority so desires, election in the case of the general territorial constituencies including those allotted to Moslems shall be by joint electorates. For the purpose of the foregoing paragraph, the wishes of the minority shall be ascertained by means of a resolution moved in the legislative council prior to the coming into operation of the Constitution Act, upon which the members of the minority community will alone be permitted to vote.

3. All qualified electors who are not voters either in a Moslem, Sikh, Indian Christian, Anglo-Indian or European Constituency, will be entitled to vote in a general constituency.

4. Members of the Depressed Classes qualified to vote will vote in a general constituency. In view of the fact that for a considerable period these classes would be unlikely, by this means alone, to secure adequate representation in the Legislature, a number of special seats will be assigned to them as shown in the table. These seats will be filled by election from special constituencies in which only members of the depressed classes electorally qualified will be entitled to vote. Any person voting in such a special constituency will, as stated above, be also entitled to vote in a general constituency. It is intended that these constituencies should be formed in selected areas where the depressed classes are most numerous, and that, except in Madras, they should not cover the whole area of the province.

5. Election to seats allotted to Indian Christians, Anglo-Indians, Labour, Landholders and all other special interests shall be as proposed in the White Paper.

Objected to

On Question —

Contents (9)

Marquess of Salisbury
Marquess of Zetland
Earl of Derby
Earl of Lytton
Lord Middleton
Lord Hardinge of Penshurst
Lord Rankeillour
Sir Reginald Craddock
Sir Joseph Nall

Not Contents (14)

Marquess of Linlithgow
Marquess of Reading.
Earl Peel
Viscount Halifax
Lord Kerr (M Lothian)
Mr Attlee
Mr Butler
Mr Cocks
Mr Davidson
Mr Foot
Sir Samuel Hoare
Lord Eustace Percy
Sir John Wardlaw-Milne
Earl Winterton

The said amendment is disagreed to

The further consideration of paragraph 121 is postponed to Friday next.

Ordered that the Committee be adjourned to Monday next, at half-past Four o'clock

Die Lunae 2° Julii 1934

Present

LORD ARCHBISHOP OF CANTERBURY
MARQUESS OF SALISBURY
MARQUESS OF ZETLAND
MARQUESS OF LINLITHGOW
MARQUESS OF READING
EARL OF DERBY
EARL OF LYTTON
EARL PEEL
VISCOUNT HALIFAX
LORD MIDDLETON
LORD KER (M. LOTHIAN)
LORD HARDINGE OF PENSHURST
LORD SNELL
LORD RANKEILLOUR
LORD HUTCHISON OF MONTROSE
MR. ATTLEE
MR. BUTLER.
MAJOR CADOGAN
SIR AUSTEN CHAMBERLAIN
MR. COCKS
SIR REGINALD CRADDOCK
MR. DAVIDSON
MR. FOOT
SIR SAMUEL HOARE
MR. MORGAN JONES
LORD EUSTACE PERCY
SIR JOHN WARDLAW MILNE
EARL WINTERTON

THE MARQUESS OF LINLITHGOW in the Chair

The Order of Adjournment is read

The proceedings of Friday last are read

Paragraph 121 is again considered

It is moved by the Marquess of Reading, the Lord Ker (M. Lothian), and Mr Foot: Pages 59 and 60, to leave out from ("Assemblies") in line 43, page 59, to the end of the paragraph in page 60 and to insert ("We feel "somewhat differently however about the Poona Pact. We consider that "the original proposals of His Majesty's Government constitute a more "equitable settlement of the general communal question and one which is "more advantageous to the Depressed Classes themselves in their present "stage of development. They united the two sections of the Hindu Com-"munity by making them vote together in the general constituencies, thereby "compelling candidates to consider the well-being of both sections of his "constituents when appealing for their support while they secured to the "Depressed Classes themselves sufficient spokesmen in the legislature elected "wholly by depressed class votes to ensure their case being heard and to "influence voting but not so numerous that the Depressed Classes will "probably be unable to find representatives of adequate calibre with results "unfortunate both to themselves and the legislatures. That solution was
"altered in a great hurry under pressure of Mr Gandhi's fast unto death." 17
"In view of the fact that His Majesty's Government felt satisfied that the "agreement come to at Poona fell within the terms of their original announce-"ment and accepted it as a valid modification of the communal award, we "do not feel able to recommend them now to reject it.")

It is moved by the Lord Rankeillour: As an amendment to the above amendment to leave out from ("death") in line 17 of the amendment to the end of the paragraph and to insert ("In view of "these considerations we feel obliged to recommend the Government "to reconsider the matter especially as regards Bengal.")

All amendments are to the Draft Report (*vide infra*, paras 1—42B pp 176–401, and *vide supra*, paras 43–453 pp 61–2?3) and NOT to the Report as published. (Vol I, Part I)

A Key is attached (see pp 521—544), showing on which pages of the Proceedings amendments to each paragraph can be found

Objected to.

On Question:—

Contents (10)	Not Contents (17)
Marquess of Salisbury.	Lord Archbishop of Canterbury.
Marquess of Zetland	Marquess of Linlithgow.
Earl of Derby	Marquess of Reading.
Earl of Lytton	Earl Peel
Lord Middleton	Lord Ker (M Lothian)
Lord Hardinge of Penshurst	Lord Snell
Lord Rankeillour	Mr Attlee
Lord Hutchison of Montrose.	Mr Butler
Major Cadogan	Sir Austen Chamberlain
Sir Reginald Craddock	Mr Cocks
	Mr Davidson
	Mr Foot
	Sir Samuel Hoare
	Mr Morgan Jones
	Lord Eustace Percy
	Sir John Wardlaw Milne
	Earl Winterton

The said amendment to the amendment is disagreed to.

It is moved by Sir Samuel Hoare and Mr Butler As an amendment to the original amendment, at the end to insert ("But subsequently to the "arrangement of the Pact objections to it in relation to Bengal have been "strongly urged by caste Hindus from that Province We should welcome "an agreement between the caste Hindus and Depressed Classes to reduce "the number of seats reserved to the latter in Bengal possibly with some "compensatory increase in such seats in some other Provinces where a small "addition in favour of the Depressed Classes would not be likely materially "to affect the balance of communities in the Legislature.")

The same is agreed to

The original amendment as amended is agreed to

Paragraph 121 is again read

The further consideration of paragraph 121 is postponed

It is moved by Mr Butler and Sir Samuel Hoare After paragraph 121 to insert the following new paragraph

("121A We have given careful consideration in this connexion to the number of seats to be allotted to special interests and in particular to representations submitted to us in favour of a substantial increase in the number of seats to be allotted to Labour in the new Provincial Legislatures Any material alteration in the number of seats allotted to special interests would inevitably involve a reopening of the Communal Award, and we have indicated above the objections to be seen to this But we are in any case of opinion that the representation proposed in the White Paper for landlords, commerce and industry, universities and labour the object of which is essentially to make expert knowledge available in the legislatures and not to give any particular voting strength to individual interests, may be regarded as striking a just balance between the claims of the various interests, and as affording an adequate representation for them. We observe in particular that the representation of labour has been increased from 9 seats in the present Provincial Legislative Councils to a total of 38, the present marked difference between the representation of labour and of commerce and industry being thus very substantially reduced. Having regard to this, to the large number of seats set aside for the Depressed Classes (whose representatives will to some extent at any

rate represent labour interests), and to the extension of the franchise, which will bring on the electoral roll large numbers of the poorer and of the labouring classes we are of opinion that the position of labour, the importance of which we fully recognise, is adequately safeguarded under the proposals embodied in the White Paper ")

The Amendment, by leave of the Committee is withdrawn

Paragraph 122 is again read.

It is moved by Mr Attlee, Mr Cocks, Mr Morgan Jones, and the Lord Snell Page 60, to leave out paragraph 122 and to insert the following new paragraph

("122 We accept the numbers suggested in the White Paper for the Provincial Legislature, subject to the following alterations We can see no reason for the provision for special seats for landlords In the Report of the Indian Statutory Commission Volume II, Part II Chapter 2 Section 90, the question of the special representation of landholders was exhaustively reviewed They came to the conclusion that the landholding interests have in fact at the present time been returned for four times as many seats as were specially reserved for them and considered that the special protection furnished to them at the present time could be safely withdrawn We are entirely in agreement with this view If special representation were needed it should be given not to those who by reason of their wealth and status in the community command influence and power but to those who by reason of their poverty and low status are likely to find their claims overlooked We are also opposed to special representation of universities We know that the Indian Statutory Commission agreed that university seats should be preserved but with considerable hesitation From our own experience we find that university seats do not provide a [illegible] of representative [illegible] from those who [illegible] through general constituencies. [illegible] that these special seats should be abolished With [illegible] Commerce and Industry and Planting [illegible] we consider that the wealth and influence of the [illegible] will always be sufficient to obtain for them adequate representation in the [illegible] In the case of Europeans, where admittedly there may be little likelihood of their being elected from general constituencies [illegible] that in view of the long connection of the British people with India and the special interests of Europeans that there should be special representation for them We believe, also that the [illegible] in the Legislative Assemblies has been of [illegible] to the Indian [illegible] inexperience [illegible] been found very valuable We think that the representation given to Europeans should be frankly given to them as such and they should not be returned as representatives of Industry and Commerce The abolition of these special seats will provide for an increase in the number to be allotted to the territorial constituencies and thus allow of some reduction in their area and population This should of course, be done with due regard to preserving the communal proportions ")

Special interests

Objected to

On Question

Contents (4)	Not Contents (24)
Lord Snell	Lord Archbishop of Canterbury.
Mr Attlee	Marquess of Salisbury
Mr. Cocks	Marquess of Zetland
Mr Morgan Jones.	Marquess of Linlithgow.
	Marquess of Reading

Contents (4). | Not Contents (24)—*continued.*

Earl of Derby.
Earl of Lytton.
Earl Peel.
Viscount Halifax.
Lord Middleton.
Lord Ker (M. Lothian).
Lord Hardinge of Penshurst.
Lord Rankeillour.
Lord Hutchison of Montrose.
Mr. Butler.
Major Cadogan.
Sir Austen Chamberlain.
Sir Reginald Craddock.
Mr Davidson.
Mr. Foot.
Sir Samuel Hoare.
Lord Eustace Percy.
Sir John Wardlaw-Milne.
Earl Winterton.

The said amendment is disagreed to.

It is moved by Sir Austen Chamberlain, page 60, line 20, to leave out ("nominated seats") and to insert ("seats to be filled by nomination").

The same is agreed to.

It is moved by the Lord Rankeillour and the Marquess of Zetland, page 60, line 25, at the end, to insert ("We have in other respects followed the scheme 'already proposed for the United Provinces in preference to that suggested 'for Bengal and Bihar. We think it inexpedient that so large a proportion 'of the Second Chamber should be chosen by the First and thereby presu-'mably reflect their views. We think further that the Legislative Councils 'should not be dissoluble but that a third of its members should retire at 'fixed intervals.")

The amendment, by leave of the Committee, is withdrawn.

Paragraph 122 is again read as amended.

The further consideration of paragraph 122 is postponed.

It is moved by Mr. Cocks, Mr. Attlee, Mr. Morgan Jones, and the Lord Snell, page 60, after paragraph 122, to insert the following new paragraphs :—

Increased Labour Representation

("122A. We consider also that there should be an increase in the number of seats reserved for Labour. It might be contended that having rejected the claims of the landholding and capitalist classes to special representation, we are not equitable in retaining special seats for Labour. The answer is the same as that applicable to the case of the depressed classes. It is necessary to give special protection to those whose economic circumstances render them liable to exploitation

"The Indian Franchise Committee in its report stressed the importance of adequate representation of Labour in the Legislatures, pointing out that 'the force of Labour is in its numbers,' and that 'until a further lowering of the franchise secures it more wholly adequate representation in the electoral roll' special representation is necessary, and it quotes with approval the views expressed by the Royal Commission on Indian Labour 'if special electorates are to remain a feature of the Indian Constitution, there is hardly any class with so strong a claim to representation by this method as industrial labour,' and further 'If special constituencies are retained it should be recognised that Labour has not less claim to representation than employers.' With these views we are in full accord.

"The Indian Franchise Committee recommended that 38 seats should be given to Labour in the Provincial Legislative Councils as against 46 seats allocated to Commerce and Industry. The White Paper has increased this disparity by adding yet another 10 to the latter. Vested interests are also reinforced in the White Paper proposals by the votes given to the landlords. The Indian Franchise Committee further pointed out that the administration of labour legislation must for the most part be in the hands of the provinces and we regard it as essential that the Provincial Legislatures should contain representatives of Labour who can watch over the provincial administration and can represent the legitimate desires and grievances of the industrial labouring class."

"We therefore consider the representation given in the White Paper as quite inadequate. We support the proposal of the Indian National Trade Union Conference that Labour should be given at least 10 per cent of the total number of seats.

122B. We should prefer that as far as possible Labour Representation should be obtained by establishing adult suffrage in the industrial and planting areas and the large cities. We consider that the more developed administration in these areas would be able to cope with increased electorate, while there is no reason why the franchise level should be the same in all constituencies. In our own country there was for many years great diversity of franchise as between urban and rural areas. **The method of securing Labour Representation.**

We especially desire this method because it is in our view far better that the needs of the workers' areas should be brought home to the candidates of all classes who would be affected by the existence of a labour vote than that labour representatives should be returned by constituencies of electors segregated from the rest of the community.

We recognize however that this method is at present only of limited application and that pending the introduction of adult suffrage generally it is necessary to provide for special constituencies.

122C. Accordingly we concur with the Indian Franchise Committee's proposal for Trade Union Constituencies as a temporary measure. The recommendation was to form these constituencies in the following manner: **Trade Union Constituencies.**

(*a*) To qualify as an electoral unit for the purpose of voting for a special Trade Union Constituency, a Union should have been registered for a minimum period of one year (in the case of the first election under the new constitution six months).

(*b*) Direct voting where the trade union is confined to one area.

(*c*) Where the Trade Union covers two or more centres, election to the seat or seats allotted to the trade unions in the particular province through an electoral college composed of delegates in each union in the proportion of one for every group of one hundred voters.

(*d*) In the varying circumstances of individual provinces seats might if conditions make it feasible and desirable, be allotted from among the trade union seats to be filled by representatives of trade unions of special importance or of specially large membership.

"122D. The suggested qualifications of electors to trade union constituencies should be: **Qualification of electors.**

(*a*) Minimum age of 21 years.

(*b*) Paid up membership for at least six months of a registered trade union, which has itself been in existence for twelve months (in the first election under the new constitution membership three months, registration of union six months).

"They also suggest that a candidate for a trade union constituency should be either a member, or an honorary member, or an official as defined in the Trade Unions Act, of one of the trade unions concerned, his position in any of these capacities to be not less than one year's standing.")

Objected to.

On Question:—

Contents (4)	Not Contents (24)
Lord Snell	Lord Archbishop of Canterbury.
Mr Attlee	Marquess of Salisbury
Mr Cocks	Marquess of Zetland
Mr Morgan Jones	Marquess of Linlithgow
	Marquess of Reading
	Earl of Derby
	Earl of Lytton
	Earl Peel
	Viscount Halifax
	Lord Middleton
	Lord Ker (M. Lothian)
	Lord Hardinge of Penshurst
	Lord Rankeillour
	Lord Hutchison of Montrose
	Mr Butler
	Major Cadogan
	Sir Austen Chamberlain
	Sir Reginald Craddock
	Mr Davidson
	Mr Foot
	Sir Samuel Hoare
	Lord Eustace Percy
	Sir John Wardlaw-Milne
	Earl Winterton

The said amendment is disagreed to.

Paragraphs 123 and 124 are again read and postponed.

Paragraph 125 is again read.

It is moved by Sir Austen Chamberlain: Page 61, line 25, to leave out ("supplemented by") and to insert ("to which are added"), and line 25, to leave out the second ("by").

The same are agreed to.

Paragraph 125 is again read as amended.

The further consideration of paragraph 125 is postponed.

Paragraphs 126 and 127 are again read and postponed.

Paragraph 128 is again read.

It is moved by Mr Butler and Sir Samuel Hoare: Page 62, line 35, to leave out ("or") and to insert ("for the detailed allocation as between trade "union and special labour constituencies of the seats allocated to Labour "and").

The same is agreed to.

Paragraph 128 is again read as amended.

The further consideration of paragraph 128 is postponed.

Paragraph 129 is again read.

It is moved by the Lord Eustace Percy Page 63, line 19, at the end to insert ("at the present moment").

The same is agreed to

It is moved by the Lord Eustace Percy Page 63, line 20, to leave out ("in the present condition")

The same is agreed to

It is moved by the Lord Eustace Percy Page 63, line 21, at the end to insert ("we do not however, desire to be understood as reporting against the introduction of some system of indirect election in the future. The 'considerations which we have advanced against its adoption at the present 'moment may lose much of their force as social conditions change, and as 'institutions of local self government develop in the Provinces. The problem is essentially one which Indians must consider for themselves, 'and on which we feel sure that Parliament will be ready to listen with 'the utmost attention to any recommendations which may be made to it by 'Provincial Legislatures")

The same is agreed to

Paragraph 129 is again read as amended

The further consideration of paragraph 129 is postponed

Paragraph 130 is again read

It is moved by Mr Attlee Mr Cocks Mr Morgan Jones and the Lord Snell. Page 63 lines 22 to 24 to leave out from the beginning of the paragraph to the end of the first sentence and to insert

("We are bound to accept the evidence which has been brought before us that at the present time administrative reasons forbid the introduction of adult franchise generally. We therefore accept the proposals in the White Paper subject to what has been stated above with regard to labour representation and to the modification which we indicate below with regard to the franchise for male voters. We consider that the constitution should provide definitely for the introduction of adult franchise in the provinces. Power should be given to any Provincial Legislature to widen, but not to narrow the franchise. It should be provided that adult franchise should be in force in all provinces at the general election next following the expiry of ten years from the date of the inauguration of the new provincial constitution.")

Objected to

On Question

Contents (4)	Not Contents (22)
Lord Snell	Lord Archbishop of Canterbury
Mr. Attlee	Marquess of Salisbury
Mr. Cocks	Marquess of Zetland
Mr. Morgan Jones	Marquess of Linlithgow
	Marquess of Reading
	Earl of Derby
	Earl Peel
	Viscount Halifax
	Lord Middleton
	Lord Ker (M. Lothian)
	Lord Hardinge of Penshurst
	Lord Rankeillour
	Lord Hutchison of Montrose
	Mr Butler
	Major Cadogan

Contents (4).	Not Contents (22)—*continued.*
	Sir Austen Chamberlain.
	Sir Reginald Craddock.
	Mr. Davidson
	Mr Foot.
	Sir Samuel Hoare
	Lord Eustace Percy.
	Sir John Wardlaw-Milne.

The said Amendment is disagreed to.

Paragraph 130 is again read.

The further consideration of paragraph 130 is postponed

Paragraph 131 is again read and postponed

Paragraph 132 is again read

It is moved by the Lord Rankeillour Page 65, line 11 to 18, to leave out from the beginning of line 11 to the end of the sentence

The amendment, by leave of the Committee, is withdrawn

It is moved by Mr Cocks, Mr Attlee, Mr Morgan Jones, and the Lord Snell Page 65, line 18, after ("suttee.") to insert ("the development of social consciousness among the women of India is phenomenal, and as far as we can ascertain has not been equalled by any other women's political movement in any other part of the world The development is the more remarkable considering the impediments which such a movement has had to encounter Nothing could be more disastrous at this juncture than to create the impression among the women of India that the proposed new constitution treated of persons of less equal citizenship")

The amendment, by leave of the Committee is withdrawn

It is moved by Sir Austen Chamberlain Page 65, line 26, to leave out from the beginning of line 26 to the end of the sentence and to insert ("which can be adduced in favour of it")

The same is agreed to

Paragraph 132 is again read as amended

The further consideration of paragraph 132 is postponed

Ordered, that the Committee be adjourned till to morrow at half-past Ten o'clock

Die Martis 3° Julii 1934.

Present :

LORD ARCHBISHOP OF CANTERBURY.
MARQUESS OF SALISBURY.
MARQUESS OF ZETLAND.
MARQUESS OF LINLITHGOW.
MARQUESS OF READING.
EARL OF DERBY.
EARL OF LYTTON.
EARL PEEL.
VISCOUNT HALIFAX.
LORD MIDDLETON.
LORD KER (M. LOTHIAN).
LORD HARDINGE OF PENSHURST.
LORD SNELL.
LORD RANKEILLOUR.
LORD HUTCHISON OF MONTROSE.
MR. BUTLER.
MAJOR CADOGAN.
SIR AUSTEN CHAMBERLAIN.
MR. COCKS.
SIR REGINALD CRADDOCK.
MR. DAVIDSON.
MR. FOOT.
SIR SAMUEL HOARE.
MR. MORGAN JONES.
LORD EUSTACE PERCY.
SIR JOHN WARDLAW-MILNE.
EARL WINTERTON.

THE MARQUESS OF LINLITHGOW in the Chair.

The Order of Adjournment is read.

The Proceedings of yesterday are read.

Paragraph 133 is again read.

It is moved by Mr. Cocks, Mr. Morgan Jones, and the Lord Snell Page 65, lines 41 to 43, to leave out from ("with") in line 41 to ("(2)") in line 43 and to insert ("altogether").

Objected to.

On Question :—

Contents (3).

Lord Snell.
Mr. Cocks.
Mr. Morgan Jones.

Not Contents (21).

Lord Archbishop of Canterbury.
Marquess of Zetland.
Marquess of Linlithgow.
Marquess of Reading.
Earl of Derby.
Earl of Lytton.
Earl Peel.
Viscount Halifax.
Lord Middleton.
Lord Ker (M. Lothian).
Lord Hardinge of Penshurst.
Lord Rankeillour.
Lord Hutchison of Montrose.
Mr. Butler.
Major Cadogan.
Sir Austen Chamberlain.
Sir Reginald Craddock.
Mr. Davidson.
Mr. Foot.
Sir Samuel Hoare.
Lord Eustace Percy.

The said amendment is disagreed to.

All amendments are to the Draft Report (*vide infra*, paras. 1-42B, pp. 470-491; and *vide supra*, paras. 43-453, pp. 64-253) and NOT to the Report as published (Vol. I, Part I).

A Key is attached (see pp. 521-544), showing on which pages of the Proceedings amendments to each paragraph can be found.

It is moved by Mr. Cocks, Mr. Morgan Jones, and the Lord Snell. Page 65, line 42, after (" husband's ") to insert (" or late husband's ").

The same is disagreed to.

It is moved by Mr. Cocks, Mr. Morgan Jones, and the Lord Snell. Page 65, lines 42 and 43, to leave out from (" property ") in line 42 to (" ; (2) ") in line 43

The same is disagreed to.

It is moved by Mr. Cocks, Mr Morgan Jones, and the Lord Snell. Page 65, line 43, to page 66, line 10, to leave out from (" Provinces ; ") in line 43, page 65, to the end of the paragraph in page 66 and to insert the following new sub-division.

" (2) That a literacy qualification should be substituted for the educational standard qualification ; and (3) That the wives, pensioned widows, and mothers of Indian officers, non-commissioned officers and soldiers should be enfranchised ; (4) That the wife of a man who is qualified as an elector under the new constitution shall be entitled to a vote. We are aware that this will mean a big addition to the electorate, but we are persuaded that it would be unfortunate if a big addition to the male electorate were made now without a corresponding increase in the women's vote. Delay now would only mean an increase later, which would have an unsettling effect on the political situation in the provinces.")

Objected to

On Question.

Contents (3).

Lord Snell.
Mr. Cocks
Mr. Morgan Jones.

Not Contents (21).

Lord Archbishop of Canterbury.
Marquess of Zetland.
Marquess of Linlithgow.
Marquess of Reading
Earl of Derby.
Earl of Lytton
Earl Peel
Viscount Halifax.
Lord Middleton.
Lord Ker (M. Lothian).
Lord Hardinge of Penshurst.
Lord Rankeillour.
Lord Hutchison of Montrose.
Mr. Butler.
Major Cadogan.
Sir Austen Chamberlain.
Sir Reginald Craddock.
Mr. Davidson.
Mr. Foot.
Sir Samuel Hoare.
Lord Eustace Percy.

The said amendment is disagreed to.

It is moved by Mr. Cocks, Mr. Morgan Jones, and the Lord Snell. Page 65, lines 44 and 45, to leave out from the beginning of line 44 to (" a ") in line 45.

The same is disagreed to.

It is moved by Mr. Cocks, Mr. Morgan Jones, and the Lord Snell. Page 65, lines 46 and 47, to leave out from (" that ") in line 46 to the third (" the ") in line 47.

The same is disagreed to.

It is moved by Mr. Cocks, Mr. Morgan Jones, and the Lord Snell. Page 66, line 6, after ("application") to insert ("personally or by letter or").

The amendment, by leave of the Committee, is withdrawn.

It is moved by Mr. Cocks, Mr. Morgan Jones, and the Lord Snell. Page 66, line 6, after ("husband") to insert ("personally or by letter").

The amendment, by leave of the Committee, is withdrawn.

Paragraph 133 is again read.

The further consideration of paragraph 133 is postponed.

Paragraph 134 is again read.

It is moved by Mr. Cocks, Mr. Morgan Jones, and the Lord Snell. Page 66, line 27, to leave out ("women") and to insert ("wives or widows").

The amendment, by leave of the Committee, is withdrawn.

It is moved by Mr. Cocks. Mr. Morgan Jones, and the Lord Snell. Page 66, lines 28 and 29, to leave out from ("property,") in line 28 to ("with") in line 29 and to insert ("before the second election under the new constitution.")

Objected to.

On Question:

Contents (8).	Not Contents (17).
Lord Archbishop of Canterbury.	Marquess of Zetland.
Marquess of Reading.	Marquess of Linlithgow.
Lord Ker (M Lothian).	Earl of Derby.
Lord Snell.	Earl of Lytton.
Lord Hutchison of Montrose.	Earl Peel.
Mr. Cocks.	Viscount Halifax.
Mr. Foot.	Lord Middleton
Mr. Morgan Jones.	Lord Hardinge of Penshurst.
	Lord Rankeillour.
	Mr. Butler.
	Major Cadogan
	Sir Austen Chamberlain.
	Sir Reginald Craddock.
	Mr. Davidson.
	Sir Samuel Hoare.
	Lord Eustace Percy.
	Sir John Wardlaw-Milne.

The said amendment is disagreed to.

It is moved by Mr. Cocks, Mr. Morgan Jones, and the Lord Snell; line 32, to leave out ("not later than") and to insert ("before").

The same is agreed to.

Paragraph 134 is again read as amended.

The further consideration of paragraph 134 is postponed.

Paragraph 135 is again read.

The following amendment is laid before the Committee.

Mr. Attlee, Mr. Cocks, Mr. Morgan Jones, and the Lord Snell to move. Page 66, lines 44 to 49, to leave out from the beginning of line 44 to the end of the paragraph and to insert ("For these and other reasons we "endorse the recommendation of the Franchise Committee").

The consideration of the said amendment is postponed.

It is moved by the Lord Eustace Percy. Page 66. line 44 to 49, to leave out lines 44 to 49 inclusive, and to insert ("We think this objection has con- "siderable force. It may be impossible at the present moment for some

"Provinces to adopt, as some other Provinces propose to do, so low a standard "as the completion of the fourth class of the primary school, or even the "leaving examination of a middle school, partly owing to lack of records "and partly owing to the number of persons who would thus be enfranchised. "But we think that it should be open to the Provincial Government to "prescribe at least any middle school certificate as the qualification for the "suffrage.")

The same is agreed to.

Paragraph 135 is again read as amended.

The further consideration of paragraph 135 is postponed.

Paragraphs 136 and 137 are again read and postponed.

Paragraph 138 is again read.

It is moved by the Lord Kei (M. Lothian). Page 68, line 10, to leave out from ("ordinance") to the end of the paragraph.

The same is agreed to.

Paragraph 138 is again read as amended.

The further consideration of paragraph 138 is postponed.

Paragraphs 139 and 140 are again read and postponed.

Paragraph 141 is again read.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 69, line 15, after ("reasonable[1]") to insert ("so far as the Excluded Areas proper are concerned. "We think, however, that a distinction might well be drawn in this respect "between Excluded Areas and Partially Excluded Areas, and that the "application of Acts to, or the framing of Regulations for, Partially Excluded "Areas is an operation which might appropriately be performed by the "Governor acting on the advice of his Ministers, the decisions taken in each "case being, of course, subject to the Governor's special responsibility for "Excluded Areas, that is to say, being subject to his right to differ from the "proposals of his Ministers if he thinks fit.")

The same is agreed to.

Paragraph 141 is again read as amended.

The further consideration of paragraph 141 is postponed.

Paragraph 142 is again read and postponed.

Paragraph 143 is again read.

It is moved by the Lord Rankeillour, the Marquess of Zetland, and Sir Austen Chamberlain. Page 69, line 45, at end to insert ("It must however "be made clear that like powers of borrowing and transfer (or 'virement') "which are found in Appropriation Acts at home are at the disposal of the "Government").

The amendment, by leave of the Committee, is withdrawn.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 69, line 45, at the end to insert ("We assume, of course, that, as at present the governments "in India will, within limits, continue to possess powers of 'virement' or "re-appropriation").

The same is agreed to.

Paragraph 143 is again read as amended.

The further consideration of paragraph 143 is postponed.

Paragraphs 144 to 146 are again read and postponed.

[1] White Paper, Proposal 108.

Paragraph 147 is again read

It is moved by Mr Morgan Jones, Mr Cocks and the Lord Snell Page 71, line 35, to leave out ("that") and to insert ("we are of the opinion "that in the case of Money Bills the Upper Chamber shall have no power of "amendment, delay or rejection Moreover in other matters")

Objected to

On Question

Contents (3)

Lord Snell
Mr Cocks
Mr Morgan Jones

Not Contents (19)

Marquess of Zetland
Marquess of Linlithgow
Marquess of Reading
Earl of Derby
Earl of Lytton
Earl Peel
Lord Middleton
Lord Ker (M Lothian)
Lord Hardinge of Penshurst
Lord Rankeillour
Lord Hutchison of Montrose
Mr Butler
Major Cadogan
Sir Austen Chamberlain.
Sir Reginald Craddock
Mr Davidson
Sir Samuel Hoare
Lord Eustace Percy
Sir John Wardlaw-Milne.

The said amendment is disagreed to

It is moved by Mr Morgan Jones Mr Cocks, and the Lord Snell Page 72, lines 2 to 10, to leave out from ("We") in line 2 to ("The") in line 10 and to insert ("accept this solution")

The same is disagreed to

It is moved by the Lord Rankeillour and the Lord Eustace Percy Page 72, lines 5 to 7, to leave out from ("least") in line 5 to the end of the sentence.

The same is agreed to.

It is moved by the Lord Rankeillour and the Lord Eustace Percy Page 72, line 12, after ("responsibilities,") to insert ("or with the necessary financing of the Provincial Administration")

The same is agreed to

Paragraph 147 is again read as amended

The further consideration of paragraph 147 is postponed

The Appendix (I) is again read and postponed

Paragraph 148 is again read

It is moved by the Lord Eustace Percy Page 74, lines 5 to 29 to leave out from ("united") in line 5, to the end of the paragraph and to insert ("We have already given our reasons for approving this proposal in principle and have pointed out that it involves two distinct operations, the one a necessary consequence of the grant of Provincial Autonomy to British India, the other the establishment of a new relationship between British India and the Indian States It only remains for us to consider the method by which each of these two operations is to be carried out")

The same is agreed to.

Paragraph 148 is again read, as amended.

The further consideration of paragraph 148 is postponed.

Paragraph 149 is again read and postponed.

Paragraph 150 is again read.

It is moved by the Lord Eustace Percy. Page 75, line 21, to leave out ("and Indian States").

The same is agreed to.

It is moved by the Lord Eustace Percy. Page 75, line 36, to page 76, line 11, to leave out from the beginning of line 36, page 75, to the end of the paragraph, page 76.

The same is agreed to.

Paragraph 150 is again read as amended.

The further consideration of paragraph 150 is postponed.

It is moved by the Lord Eustace Percy. Page 76, after paragraph 150 to insert the following new paragraph: —

Accession of States to Federation a Voluntary act.

("150A. The rights, authority and jurisdiction which will thus be conferred by the Crown on the new Central Government will not extend to any Indian State. It follows that the accession of an Indian State to the Federation cannot take place otherwise than by the voluntary act of its Ruler. The Constitution Act cannot itself make any Indian State a member of the Federation; it will only prescribe a method whereby the State may accede and the legal consequences which will flow from the accession. There can be no question of compulsion so far as the States are concerned. Their Rulers can enter or stand aside from the Federation as they think fit. They have announced their willingness to consider federation with the Provinces of British India on certain terms; but whereas the powers of the new Central Government in relation to the Provinces will cover a wide field and will be identical in the case of each Province, the Princes have intimated that they are not prepared to agree to the exercise by a Federal Government for the purpose of the Federation of a similar range of powers in relation to themselves.")

The same is agreed to.

New paragraph 150A is again read.

The further consideration of paragraph 150A is postponed.

Paragraph 151 is again read.

It is moved by the Lord Eustace Percy. Page 76, to leave out paragraph 151.

The same is agreed to.

Paragraph 152 is again read and postponed.

Paragraph 153 is again read.

It is moved by Mr. Cocks, Mr. Morgan Jones, and the Lord Snell. Page 77, lines 26 to 34, to leave out from ("Crown") in line 26 to ("We") in line 34 and to insert ("We recognise that there may be some exceptions due to Treaty "rights and special privileges, but we consider that there must be a definite "minimum laid down and that as far as possible all States should come in "on the same terms").

The amendment, by leave of the Committee, is withdrawn.

It is moved by the Lord Ker (M. Lothian). Page 77, line 34, after ("course".) to insert ("we consider that one of the essential conditions of "Federation should be that States adhering to the Federation, like the "provinces, should accept the principle of internal freedom for trade in India

"and that the Federal government alone should have the power to impose "tariffs and other restrictions on trade. In cases where States already "impose customs duties at their borders the condition of accession should "be that no addition to such duties should be made, the question of the "conditions on which they shall be reduced or abolished being left to "subsequent negotiation between the State in question and the Federal "government")

The amendment, by leave of the Committee, is withdrawn

Paragraph 153 is again read.

The further consideration of paragraph 153 is postponed

Paragraph 154 is again read.

It is moved by Mr Morgan Jones, Mr. Cocks, and the Lord Snell Page 77, line 40 to page 78, line 12, to leave out from the beginning of the paragraph, page 77, to ("We") in line 12 page 78, and to insert ("The White Paper "suggests that a Federation which comprised the Provinces and only a small "number of the States would hardly be deserving of the name We are unable "to agree We consider that the forces making for Federation are so strong "that it is certain that before long a majority of the States, in numbers "and population, will accede At the same time, it is possible that there "might be some hesitation at the beginning and we see no reason why the "rest of India should wait for a certain number of Rulers of States to change "their opinions before enjoying responsibility at the Centre We would prefer "that the Federation should start with a very large proportion of the Indian "States included in it, but we believe that in any event a start should be "made and that it should be possible to build up a Federation by a gradual "accretion of States It is for this reason, among others, that we desire "that the conditions of accession should be uniform, and also, as we shall "indicate later, that there should be a definite[*] basis of representation for "States adhering")

The same is disagreed to

It is moved by the Lord Hardinge of Penshurst Page 77, line 47, to leave out ("half") and to insert ("two thirds")

The amendment, by leave of the Committee is withdrawn

It is moved by Mr Cocks, Mr Morgan Jones and the Lord Snell Page 78, lines 12 to 14, to leave out from ("here") in line 12 to ("but") in line 14 and to insert ("We consider that the time lag which may be necessary between "the establishment of autonomy in the Provinces and the establishment of "the Federation should not be longer than is absolutely dictated by "administrative necessity")

The amendment, by leave of the Committee, is withdrawn

It is moved by Mr Cocks, Mr Morgan Jones, and the Lord Snell Page 78, line 14, to leave out ("but") and to insert ("and")

The amendment, by leave of the Committee, is withdrawn

It is moved by Mr Cocks, Mr Morgan Jones, and the Lord Snell Page 78, lines 14 and 15, to leave out ("desirable, if not")

The amendment, by leave of the Committee, is withdrawn

Paragraph 154 is again read

The further consideration of paragraph 154 is postponed

Paragraph 155 is again read

It is moved by Mr Morgan Jones, Mr Cocks and the Lord Snell Page 78, line 17, to page 79, line 1, to leave out from the beginning of line 17, page 78 to ("principle") in line 1, page 79, and to insert.—

("We agree with the proposal in the White Paper, that there "must be a legal differentiation of functions between the Representative

[*] *Infra*, para 268

"of the Crown in his capacity as Governor-General of the Federation "and as representing the Sovereign in his relationship with the States not "adhering to the Federation and to all States in respect of the rights of "the Crown outside the sphere of the Federation. We consider that it "would be convenient if in his first capacity the King's representative "were styled Governor-General and in his second Viceroy. We agree "with the ").

The amendment, by leave of the Committee, is withdrawn.

It is moved by the Lord Eustace Percy, and Major Cadogan. Page 78, line 35, to page 79, line 4, to leave out from (" proposal,") in line 35, page 78, to the end of the paragraph on page 79.

The amendment, by leave of the Committee, is withdrawn.

It is moved by the Lord Eustace Percy. Page 78, lines 37 to 39, to leave out from (" future ; ") in line 37 to the end of the sentence.

The amendment, by leave of the Committee, is withdrawn.

It is moved by Sir John Wardlaw-Milne. Page 78, lines 39 to 45, to leave out from (" purpose,") in line 39 to (" made ") in line 45 and to insert (" The "suggestion ").

The amendment, by leave of the Committee, is withdrawn.

It is moved by the Lord Eustace Percy. Page 78, lines 39 and 40, to leave out from (" that ") in line 39 to the first (" the ") in line 40.

The amendment, by leave of the Committee, is with drawn.

It is moved by the Lord Eustace Percy. Page 78, line 41, to leave out from (" and ") to (" We ") and to insert (" this being so ").

The amendment, by leave of the Committee, is withdrawn.

Paragraph 155 is again read.

The further consideration of paragraph 155 is postponed.

Paragraphs 156 to 158 are again read and postponed.

Paragraph 159 is again read.

It is moved by the Marquess of Zetland. Page 80, line 20, to leave out from (" We ") to (" force ") and to insert (" appreciate, moreover, the ").

The same is agreed to.

It is moved by Sir John Wardlaw-Milne. Page 80, lines 33 to 35, to leave out from (" contribution ") in line 33 to (" to ") in line 35.

The amendment by leave of the Committee is withdrawn.

Paragraph 159 is again read as amended.

The further consideration of paragraph 159 is postponed.

Paragraph 160 is again read.

It is moved by the Lord Eustace Percy. Page 81, line 3, after (" Legislature.[1]") to insert ("We have already given our reasons for accepting, "in principle, the proposal of the White Paper that the Federal Government "should be in some measure responsible to the Federal Legislature, but that "this responsibility should not extend to all Federal subjects. This being "accepted.")

The same is agreed to.

It is moved by the Lord Eustace Percy. Page 81, line 15, to leave out the second (" the ") and to insert (" certain ").

The same is agreed to.

It is moved by Mr. Cocks, Mr. Morgan Jones, and the Lord Snell. Page 81, line 20 at the end to insert (" Before doing this, however, we think it is

[1] White Paper, Proposals 6-55.

"necessary to point out that responsibility may take many forms. We believe "that any attempt to try to create responsibility at the Centre by an exact "reproduction of the machinery which functions at Westminster would be "doomed to failure. In the first place, the system of responsible government "as we know it in this country depends on stable divisions on Party lines "and, generally speaking, functions satisfactorily where there are only two "main Parties. These parties should not be the creation of groups formed "by Members of the Legislature subsequent to their election, but should "represent real divisions of opinion which extend back to the constituencies. "In the Federal Legislature, apart from the communal cleavages which "already make the working of the British system difficult in many Provinces, "there is to be a sharp division of the Legislature into two categories of "members, one of elected representatives from British India, the other of "nominees of the Rulers of States. It seems difficult, therefore, to envisage "the emergence of Parties on the lines familiar to us in this country. Two "further obstacles present themselves. The first is that, owing to the nature "of the Federation, the Members of the Legislature will not be equally "concerned in its territory, and that the jurisdiction of the Federation will "not extend as to all subjects equally over that territory, while the other is "that the subject-matter of Central administration and legislation provides a "rather slender basis for a full parliamentary system. We realise that 90 per "cent. of everything that concerns the ordinary citizen comes within the "ambit of the Provincial administration. For these reasons we consider that "responsibility at the Centre will be developed on lines very different from "those obtaining at Westminster. We think that it is not always realised "in India that the British Cabinet is in fact the master of the Legislature. "This is a result of the Party system, for the Cabinet, though formally "selected by the Crown, is really composed of the leading members of the "Party in a majority. It maintains its power largely through the discipline "of the Party machine backed by the power of dissolution. We think that "this power of the Ministry to control the Legislature will not be reproduced "at Delhi. indeed, we think that the Ministry will be far more the servant "of the Legislature than its master. Under these circumstances, we think "that the real responsibility will lie rather with the Members of the Legislature "than with the Ministers; that is to say, that the Members of the Legislature "will have to take full responsibility for their actions. We do not think that "the practice, whereby a Ministry is dependent from day to day on a vote "of the Legislature during a Session, is workable in India. We suggest "proposals, which will give what is essential- greater stability to the "administration".)

The amendment, by leave of the Committee, is withdrawn.

Paragraph 160 is again read as amended.

The further consideration of paragraph 160 is postponed.

Paragraph 161 is again read and postponed.

Paragraph 162 is again read.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 82, line 38, after ("external affairs") to insert reference to a footnote,[3] and to insert the following as a footnote:—

("[3]This term does not, of course, include relations with the Indian States in matters in which they have not agreed to federate; such matters will be dealt with personally by the Viceroy as representative of the Crown. It follows from this that any State matter which a Ruler has not accepted as federal in the case of his State will not be subject to discussion in the Federal, or a Provincial, Legislature, unless the Governor General, or the Governor, considers that British Indian interests are affected.")

The same is agreed to.

Paragraph 162 is again read as amended.

The further consideration of paragraph 162 is postponed.

Paragraphs 163 to 165 are again read and postponed.

Paragraph 166 is read.

It is moved by Mr. Morgan Jones and Mr. Cocks. Page 84, to leave out paragraph 166 and to insert the following new paragraph :—

("166. We do not wish to repeat here what we have already said with regard to special responsibilities. We consider that the White Paper proposals in regard to the Governor-General are open to the same objection as those suggested in the case of the Provincial Governors and we make the same recommendations for modification. In addition we do not think it necessary that the Governor-General should have a special responsibility for safeguarding the financial stability and credit of the Federation. It is, in our view, useless to give power and responsibility on the one hand and take it away with the other. If Indian representatives are not capable of conducting on sound lines the finances of the Federation, they are not capable of self-government.")

Objected to.

On Question :-

Contents (2).	Not Contents (20).
Mr. Cocks.	Lord Archbishop of Canterbury.
Mr. Morgan Jones.	Marquess of Salisbury.
	Marquess of Zetland.
	Marquess of Linlithgow.
	Marquess of Reading.
	Earl Peel.
	Viscount Halifax.
	Lord Ker (M. Lothian).
	Lord Hardinge of Penshurst.
	Lord Rankeillour.
	Lord Hutchison of Montrose.
	Mr. Butler.
	Major Cadogan.
	Sir Austen Chamberlain.
	Sir Reginald Craddock.
	Mr. Davidson.
	Sir Samuel Hoare.
	Lord Eustace Percy.
	Sir John Wardlaw-Milne.
	Earl Winterton.

The said amendment is disagreed to.

It is moved by the Lord Eustace Percy.

Page 84, lines 1 to 20, leave out from ("sphere ;") in line 16 to the end of the paragraph.

The same is agreed to.

Paragraph 166 is again read as amended.

The further consideration of paragraph 166 is postponed.

Paragraph 167 is again read.

It is moved by Mr. Morgan Jones, Mr. Cocks, and the Lord Snell. Page 84, to leave out paragraph 167.

The amendment, by leave of the Committee, is withdrawn.

Paragraph 167 is again read and postponed.

Paragraph 168 is read.

It is moved by the Lord Eustace Percy. Page 85, line 30, after (" only.") to insert (", his action in the second capacity being untouched in any way " by the Constitution Act ").

The same is agreed to.

Paragraph 168 is again read as amended.

The further consideration of paragraph 168 is postponed

Paragraph 169 is again read.

It is moved by Sir Samuel Hoare and Mr Butler Pages 85 and 86, to leave out paragraph 169

The same is agreed to

Paragraph 170 is again read

It is moved by Mr Morgan Jones, Mr Cocks, and the Lord Snell Page 86, line 11, after (' Ecclesiastical Affairs ([1]) ') to insert (" For reasons which we " propose to state we disagree with the proposal that the two latter Depart ' ments should be reserved We agree that Defence must for some years " be a Reserved subject ')

The same is disagreed to

The further consideration of paragraph 170 is postponed till to-morrow.

Ordered, that the Committee be adjourned till to-morrow at half past Two o'clock

[1] White Paper, Proposal 11 It is also proposed that the Governor General shall himself direct and control the administration of British Baluchistan (White Paper, Proposal 51), but there will not be a Reserved Department of British Baluchistan, which will be a Chief Commissioner's Province and will be in no different position from other Chief Commissioner Provinces except that Ministers will not advise the Governor General in relation to its administration

Die Mercurii 4° Julii 1934.

Present :

MARQUESS OF SALISBURY.	MR. BUTLER.
MARQUESS OF ZETLAND.	MAJOR CADOGAN.
MARQUESS OF LINLITHGOW.	SIR AUSTEN CHAMBERLAIN.
MARQUESS OF READING.	MR. COCKS.
EARL OF DERBY.	SIR REGINALD CRADDOCK.
VISCOUNT HALIFAX.	MR. DAVIDSON.
LORD MIDDLETON.	MR. FOOT.
LORD KERR (M. LOTHIAN).	SIR SAMUEL HOARE.
LORD HARDINGE OF PENSHURST.	MR. MORGAN JONES.
LORD SNELL.	LORD EUSTACE PERCY.
LORD RANKEILLOUR.	SIR JOHN WARDLAW-MILNE.
LORD HUTCHISON OF MONTROSE.	EARL WINTERTON.

THE MARQUESS OF LINLITHGOW in the Chair.

The Order of Adjournment is read.

The Proceedings of yesterday are read.

Paragraph 170 is again considered.

It is moved by Mr. Morgan Jones, Mr. Cocks, and the Lord Snell. Page 86, lines 19–23, to leave out from ("Council[1]") in line 19 to ("and") in line 23, and to insert ("We consider that these Counsellors should form "part of a unified Ministry.")

The same is disagreed to.

Paragraph 170 is again read.

The further consideration of paragraph 170 is postponed.

Paragraph 171 is again read.

It is moved by Mr. Morgan Jones, Mr. Cocks, and the Lord Snell. Page 86, line 33, to leave out from ("India") in line 33 to the end of the paragraph and to insert ("We recognize the serious constitutional issue "raised by the existence of the Indian Defence Problem and the way in which "it is met at the present time by the Army in India. So long as British "troops are employed in India, whether for external defence or for internal "security, it is, in our view, impossible to bring them under the orders of a "responsible Minister. The Indian Statutory Commission examined the "whole constitutional position created by the existence of the Indian Army "at great length, and they recognized that it was a formidable obstacle to "the development of complete self-government. We believe that Indian "public opinion is extremely sensitive on this point, but that the majority "of the leading statesmen recognize the hard facts of the situation. At "the same time, we believe that it is essential that the Constitution should "contain provisions for the bringing to an end of an anomalous position. "We consider that there should be a definite programme of Indianization "with a time-limit of thirty years. It may be urged that it is impossible "to lay down an exact period within which an Indianized Army would be "capable of the defence of India. There may be truth in this, but we consider "that it is necessary, if the work of Indianization is to be pushed forward "with the greatest possible energy, that there should be a clearly marked "time by which the goal is to be attained. From a study of such reports "and documents as have been available to us we believe that this could be "successfully accomplished in a period of twenty-five years. We suggest that "that period should be aimed at but that a maximum of thirty years should "be fixed which must not be exceeded.")

[1]White Paper, Proposal 12.

All amendments are to the Draft Report (*vide infra*, paras. 1-42B, pp. 470-491; and *vide supra* paras. 43-453, pp. 64-253) and NOT to the Report as published (Vol. I, Part I).

A Key is attached (see pp. 521-544), showing on which pages of the Proceedings amendments to each paragraph can be found.

"At the same time, we are impressed with the very large proportion of her revenues which India spends on Defence. We do not suggest that this is in excess of the amount needed to maintain sufficient forces for the requirements of India, and we are aware that a recent agreement on the subject of the capitation payments has resulted in an advantage of a million pounds a year in India's favour, but we consider that, as compared with other parts of the Empire outside the United Kingdom, India has for years borne, and is still bearing, an undue expense. It may be urged that India's defence by sea is provided by Great Britain, but her danger from the sea is a potential rather than an actual menace. India possesses in the North-West Frontier the one land frontier in the whole of the British Commonwealth which not only borders on areas which are frequently liable to be disturbed, but is exposed to the possibility of invasion by a hostile power. While we recognise the vital necessity of the safe keeping of this frontier in the interest of India herself, we cannot but recognize that the menace to that barrier may well result, not from anything which India herself does, but from the mere fact of her being a Member of the British Commonwealth. We therefore consider that the whole question of Imperial Defence and the responsibilities of the various Members of the British Commonwealth should be reviewed at an early date in order that it may be considered as to how far the burden now borne by India is equitable. While we agree that Defence must continue to be a reserved subject, we are strongly impressed with the need for building up an informed opinion on Defence matters, and we therefore propose that there should be a Standing Defence Committee of the Legislature.") The Burden of Defence.

Objected to.

On Question:—

Contents (3).	Not Contents (21).
Lord Snell.	Marquess of Salisbury.
Mr. Cocks.	Marquess of Zetland.
Mr. Morgan Jones.	Marquess of Linlithgow
	Marquess of Reading
	Earl of Derby.
	Viscount Halifax
	Lord Middleton.
	Lord Ker (M. Lothian).
	Lord Hardinge of Penshurst.
	Lord Rankeillour
	Lord Hutchison of Montrose.
	Mr. Butler.
	Major Cadogan.
	Sir Austen Chamberlain.
	Sir Reginald Craddock.
	Mr. Davidson.
	Mr. Foot.
	Sir Samuel Hoare.
	Lord Eustace Percy.
	Sir John Wardlaw-Milne.
	Earl Winterton

The said amendment is disagreed to.

Paragraph 171 is again read.
The further consideration of paragraph 171 is postponed.

Paragraph 172 is again read.

It is moved by the Lord Eustace Percy. Page 87, lines 16 to 18, to leave out from ("and") in line 16 to ("that") in line 18, and to insert ("if this be

"granted, some form of dyarchy, with all its admitted disadvantages is, as "we have already pointed out, inevitable; but the form adopted must be "such".)

The same is agreed to.

It is moved by the Lord Eustace Percy. Page 87, line 19, to leave out ("should") and to insert ("will").

The same is agreed to.

It is moved by the Lord Eustace Percy. Page 87, line 20, to leave out ("should") and to insert ("will").

The same is agreed to.

Paragraph 172 is again read as amended.

The further consideration of paragraph 172 is postponed.

Paragraph 173 is again read.

It is moved by the Lord Eustace Percy. Page 88, line 13, to leave out ("and") and after ("prevail") to insert ("and he must have adequate means of giving effect to them").

The same is agreed to.

Paragraph 173 is again read as amended.

The further consideration of paragraph 173 is postponed.

Paragraph 174 is again read.

It is moved by the Lord Eustace Percy. Page 88, lines 14 to 22, to leave out from the beginning of the paragraph to ("The") in line 22, and to insert ("In order to secure the effective co-operation of the other departments of "government, Federal or Provincial, and thus to render unnecessary any "recourse to the Governor-General's special powers in ordinary matters of "administration, it may be well to establish some permanent co-ordinating "machinery.")

The amendment, by leave of the Committee, is withdrawn.

It is moved by Mr. Cocks, Mr. Morgan Jones, and the Lord Snell. Page 88, lines 22 to 32, to leave out from ("desirable.") in line 22, to the end of the paragraph and to insert ("We are strongly impressed with the need for "building up an informed opinion on Defence matters, and we therefore "propose that there should be established a Standing Defence Committee of "the Legislature.")

The same is disagreed to.

Paragraph 174 is again read.

The further consideration of paragraph 174 is postponed.

Paragraph 175 is again read.

It is moved by Mr. Morgan Jones, Mr. Cocks, and the Lord Snell. Page 89, lines 3 to 21, to leave out from ("post.") in line 3 to the end of the paragraph and to insert ("Bearing in mind the very large proportion of her revenues "which India spends on Defence we concur with the second and third "proposals.")

The same is disagreed to.

Paragraph 175 is again read.

The further consideration of paragraph 175 is postponed.

It is moved by the Earl Winterton. Page 89, after paragraph 175, to insert the following new paragraph :—

Employment of Indian troops outside India.

("175A. In illustration of the principle that the Governor-General should invite the collaboration of the Federal Ministry to the widest

extent compatible with the preservation of his own responsibility, we would refer to the question of lending Indian personnel of the Defence forces for service outside India. There have been many occasions on which the Government of India have found themselves able to spare contingents for operations overseas in which considerations of Indian defence have not been involved; and we may presume that such occasions will recur. There appears to be some misconception in India on this point, which it would be desirable to remove. It is not the case that, because a Government can in particular circumstances afford a temporary reduction of this kind in its standing forces, the size of those forces is thereby proved to be excessive; or conversely, that if it is not excessive troops cannot be spared for service elsewhere. These standing forces are in the nature of an insurance against perils which may not always be insistent but which nevertheless must be provided for. There is thus no ground for assuming a *prima facie* objection to the loan of contingents on particular occasions. If on such occasions the Governor General is asked whether he can lend a contingent, he must decide, first, whether the occasion involves the defence of India in the widest sense, and secondly, whether he can spare the troops having regard to all the circumstances at the time. Both these decisions would fall within the exclusive sphere of his responsibility. If he decided that troops could be spared, the only remaining constitutional issue would be narrowed down to one of broad principle, namely, that Indian leaders as represented in the Federal Ministry should be consulted before their fellow countrymen were exposed to the risks of operations in a cause that was not their own. In view, however, of the complexities that may arise, we do not feel able to recommend that the ultimate authority of the Governor General should be limited in this matter. Our proposal is that when the question arises of lending Indian personnel of the Defence Forces for service outside India on occasions which in the Governor General's decision do not involve the defence of India in the broadest sense he should not agree to lend such personnel without consultation with the Federal Ministry. We have little doubt that in practice he will give the greatest weight to the advice of the Federal Ministry before reaching his final decision. The financial aspect has also to be considered. Although in the circumstances we are discussing the defence of India would not be involved, it might on occasions be in India's general interests to make a contribution towards the cost of external operations. Proposal 150 of the White Paper reproduces the provision of s. 20 (1) of the Government of India Act that "the revenues of India shall be applied for the purposes of the government of India alone", and a contribution in the general interests of India would come within the scope of that provision. Under the new Constitution, however, the recognition of interests of this nature would fall within the province of the Federal Ministry and Legislature, since, *ex hypothesi*, they would not be defence interests. If, therefore, the question should arise of offering a contribution from India's revenues in the circumstances we are discussing (and the interest in question did not fall under the other reserved department of External Affairs) we are of opinion that it would need to be ratified by the Federal Legislature.")

Objected to.

On Question—

Contents (17).

Marquess of Salisbury.
Marquess of Linlithgow.
Marquess of Reading.
Earl of Derby.

Not Contents (3).

Lord Ker (M. Lothian).
Mr. Cocks.
Mr. Morgan Jones.

Contents (17)—(*continued*).

Viscount Halifax.
Lord Middleton.
Lord Hardinge of Penshurst
Lord Rankeillour.
Lord Hutchison of Montrose
Mr. Butler
Major Cadogan
Sir Austen Chamberlain.
Sir Reginald Craddock
Mr. Davidson
Sir Samuel Hoare
Lord Eustace Percy
Earl Winterton

Not Contents (3).

The said amendment is agreed to

New paragraph 175A is again read.

The further consideration of paragraph 175A is postponed.

Ordered, that the Committee be adjourned to Friday next at half-past Ten o'clock.

Die Veneris 6 Julii 1934.

Present:

Marquess of Salisbury
Marquess of Zetland
Marquess of Linlithgow
Marquess of Reading
Earl of Lytton
Lord Kerr (M. Lothian)
Lord Hardinge of Penshurst
Lord Snell
Lord Rankeillour
Lord Hutchison of Montrose

Mr Butler
Major Cadogan
Sir Austen Chamberlain
Mr Cocks
Sir Reginald Craddock
Mr Davidson
Mr Foot
Sir Samuel Hoare
Mr Morgan Jones
Sir Joseph Nall
Lord Eustace Percy
Sir John Simon
Sir John Wardlaw Milne
Earl Winterton

The Marquess of Linlithgow in the Chair

The Order of Adjournment is read

The Proceedings of Wednesday last are read

Paragraph 176 is again read

It is moved by Mr Morgan Jones Mr Cocks and the Lord Snell Page 89, lines 29 to 35 to leave out from the beginning of line 29 to the end of the paragraph and to insert ("We consider that there should be a definite "programme of Indianization with a time limit of thirty years. It may be "urged that it is impossible to lay down an exact period within which an "Indianized Army would be capable of the defence of India. There may be "truth in this but we consider that it is necessary if the work of Indianization "is to be pushed forward with the greatest possible energy that there should "be a clearly marked time by which the goal is to be attained. From a study "of such reports and documents as have been available to us we believe "that this could be successfully accomplished in a period of 25 years. We "suggest that this period should be aimed at but that a maximum of 30 "years should be fixed which must not be exceeded.")

The same is disagreed to

Paragraph 176 is again read

The further consideration of paragraph 176 is postponed

Paragraphs 177 and 178 are again read

It is moved by Mr Cocks Mr Morgan Jones and the Lord Snell Pages 89 and 90, to leave out paragraphs 177 and 178

The same is disagreed to

Paragraphs 177 and 178 are again read

The further consideration of paragraphs 177 and 178 is postponed

Paragraph 179 is again read and postponed

Paragraph 180 is again read

It is moved by Sir Samuel Hoare and Mr Butler Page 91 line 8 at the end to insert, ("Although the Executive authority of the Federation vested "in the Governor-General as the King's representative includes the super- "intendence, direction and control of the military government in the sense

All amendments are to the Draft Report (*vide infra*, paras 1 42B pp 470 491, and *vide supra*, paras 43-453, pp. 64-253) and NOT to the Report as published (Vol. I, Part I).

A Key is attached (see pp 521 544), showing on which pages of the Proceedings amendments to each paragraph can be found

"in which these words are used in section 33 (1) of the Government of India
" Act, the command of the Forces in India will be exercised by a Commander-
" in-Chief to be appointed by His Majesty ")

The same is agreed to

Paragraph 180 is again read as amended

The further consideration of paragraph 180 is postponed

Paragraph 181 is again read

It is moved by the Lord Snell Mr Cocks and Mr Morgan Jones Page 91, to leave out paragraph 181 and to insert the following new paragraph

("181 We see no reason why the Indian Federation should not have control over the Department of Foreign Affairs We recognise that the Viceroy in his relations with those Indian States which do not join the Federation, and in relation to all the States in regard to those subjects which are outside the Federation will continue to control the Department which in the Government of India has been hitherto described as foreign but we consider that in its relationship to the rest of the world India is entitled to have the same control over her foreign policy as that which is conceded to the other Dominions It may be suggested that inasmuch as Indian Defence is to be a Reserved Subject, Foreign Affairs should also be reserved but in our view this is to turn the argument inside out Armaments depend on foreign policy India has for years paid for her own defence although the foreign policy of the British Commonwealth of Nations of which she is a member has been decided without her having an effective voice We would point out that at the Peace Conferences and subsequently in the League of Nations India has had representation as a nation We consider that this recognition which was given to her as a consequence of the services of her sons in the Great War should be given a full content by conceding to her the same degree of control over her external relations as is enjoyed by her sister States in the British Commonwealth ")

The same is disagreed to

Paragraph 181 is again read

The further consideration of paragraph 181 is postponed

Paragraph 182 is again read and postponed

Paragraph 183 is again read

It is moved by Mr Morgan Jones Mr Cocks and the Lord Snell Page 92, lines 13 to 36 to leave out from the beginning of line 13 to the end of the paragraph and to insert ("It seems to us a mistake to have a special reserved
"Department of the Government of India to look after the religious ministra-
" tions of the Army and Services in India Such ministrations in our opinion,
" should form part of the organisation of the Army and the Services Whether
" it is wise to make such ministrations a drain on the revenues of a people of
" other religions is, we think, a point that has not heretofore been sufficiently
" considered While we are prepared to accept the proposition that so long as
" we have an Army in India their spiritual needs should be provided for we
" cannot see why this can only or best be achieved by the proposal of the
" White Paper to retain the Ecclesiastical Department permanently as a
" special Reserved Department of the Government of India We think it
" would be very much better to abolish this Department and include religious
" ministrations as an integral part of the Army administration We would go
" further and propose that so long as we have an Army and Services in India
" whose spiritual needs are entirely different from those of the peoples amongst
" whom they serve, it would be a gracious act on our part if the necessary

"expenses were placed on British instead of on Indian revenues. We are in "any event entirely oppo ed to this being included as a Reserved Department "of the Government of India.")

The same is disagreed to.

Paragraph 183 is again read.

The further consideration of paragraph 183 is postponed

Paragraph 184 is again read.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 93, line 21, after ("deliberations") to insert (" -and indeed that there will be free resort by "both parties to mutual consultation".)

The same is agreed to.

Paragraph 184 is again read as amended.

The further consideration of paragraph 184 is postponed.

Paragraph 185 is again read and postponed.

Paragraph 186 is again read.

It is moved by the Marquess of Linlithgow. Page 94 lines 24 and 25, to leave out ("even more than the Provincial Governors")

The same is agreed to.

It is moved by Mr. Morgan Jones, Mr Cocks, and the Lord Snell Page 94, line 26, after ("head") to insert ("who would be fully conversant with "Indian affairs and in close contact with the administration.")

The same is disagreed to.

It is moved by the Lord Snell Mr Morgan Jones, and Mr Cocks Page 94, line 26 to 28, to leave out from ("head") in line 26, to ("it") in line 28.

The same is disagreed to.

Paragraph 186 is again read as amended.

The further consideration of paragraph 186 is postponed.

Paragraph 187 is read and postponed.

Paragraphs 188 to 192 are read.

It is moved by the Lord Eustace Percy Pages 94 to 97, to leave out paragraphs 188 to 192 inclusive, and to insert the following new paragraph :—

("188. We have considered in an earlier part of our Report the problem of the relations between the Executive and the Legislature of a Province, and those remarks apply *mutatis mutandis* to the relations between the Federal Executive and Legislature. It is only necessary to have to refer briefly to two special complications which are introduced into the Federal problem; the existence of the Governor-General's Reserved Departments and the question of the representation of the States in the Ministry. On the first point, we have already spoken frankly of the difficulties presented by a system of dyarchy. We can only repeat that, faced by a choice in which every conceivable alternative involves some division of responsibility and some danger of friction, we recommend the alternative which draws the line of division at Defence and Foreign Affairs as corresponding most nearly with the realities of the situation; that, of these, the crucial question, so far as the Legislature is concerned, is Defence; and that on this question we regard an All-India Federation as the best means of ensuring that the Central Legislature, while discharging its legitimate function of discussion and criticism, will not (in the phrase of the Statutory Commission) seek 'to magnify its functions in the reserved field'. On the second point, it will be observed that, The difficulties of Dyarchy at the Centre and of composite nature of Executive

under the White Paper proposals, the Governor-General is to be directed by his Instrument of Instructions to include, 'so far as possible', in his Ministry, not only members of important minority communities, but also representatives of the States which accede to the Federation. It may be thought that this proposal runs the risk of adding to the possible dangers of communal representation in the Ministry, to which we have referred in speaking of the Provinces, the further dangers of territorial representation. This, however, is a common feature of all Federations. Few, if any, have in practice found it possible to constitute an Executive into which an element of territorial representation does not in some sense enter, and in the Swiss Constitution the principle of such representation is explicitly laid down, so that to advance this as an argument against the White Paper proposals would be, in effect, to reject an All-India Federation even as an ultimate ideal. Moreover, the limitation of the functions of the Federal Executive to matters of essentially All-India interest is calculated to minimise the dangers of both communal and territorial representation. Tariffs and excise duties, currency and transport are national, not communal questions; and it is not unreasonable to assume that any clash of interest with regard to them will tend in future to have an economic rather than a communal origin. There will, therefore, be centripetal as well as centrifugal forces, and it seems to us indeed conceivable that, until the advent of a new and hitherto unknown alignment of parties, a central Executive such as we have described may even come to function, as we believe that the Executive of the Swiss Confederation functions, as a kind of business committee of the Legislature.")

After debate the further consideration of the above amendment is postponed.

Paragraphs 188 to 192 are again read.

The further consideration of paragraphs 188 to 192 is postponed.

Paragraph 193 is again read and postponed.

Paragraph 194 is again read

It is moved by Mr. Morgan Jones, Mr. Cocks, and the Lord Snell. Page 98, line 30, after ("Paper") to insert ("It should be recognized that to attempt "to provide a legislative body which shall be representative of a population "of over 350 millions is without precedent. We are met at the outset by "the difficulty of applying the representative system on a basis of direct "representation to a unit of such magnitude. On the one hand if the constituencies were of a reasonable size, the resultant chamber would be unmanageably large; if on the other hand, the chamber were of a reasonable size the constituencies on which it was based would necessarily be enormous.")

The same is agreed to.

Paragraph 194 is again read as amended.

The further consideration of paragraph 194 is postponed.

Paragraph 195 is again read.

It is moved by Mr. Morgan Jones, Mr. Cocks, and the Lord Snell. Page 99, line 3, at the end to insert ("As we understand the proposals of the White "Paper it is suggested that the two Chambers, except for the proviso that "Money Bills will be initiated in the Assembly and that the range of the "functions of the Upper Chamber in relation to Supply will be less extensive "than those of the Lower Chamber, are to possess equal powers, and that "in the event of differences between the two Houses, the device of a Joint "Session should be employed. We consider that, in effect, this really makes "the Central Legislature a single Chamber meeting for certain purposes in

two sections, and makes an unnecessary duplication of representation, which
" results in an unwieldy body of legislatures. We, therefore, propose that
" there should be only one Chamber at the Centre, and we accept the proportions laid down for representation from the Provinces and the States as
" applying to a single chamber.")

Objected to.

On Question :—

Contents (3).	Not Contents (20).
Lord Snell.	Marquess of Salisbury.
Mr. Cocks.	Marquess of Zetland.
Mr. Morgan Jones.	Marquess of Linlithgow.
	Marquess of Reading.
	Earl of Lytton.
	Lord Ker (M. Lothian.)
	Lord Hardinge of Penshurst.
	Lord Rankeillour.
	Lord Hutchison of Montrose.
	Mr. Butler.
	Major Cadogan.
	Sir Austen Chamberlain.
	Sir Reginald Craddock.
	Mr. Davidson.
	Mr. Foot.
	Sir Samuel Hoare.
	Sir Joseph Nall.
	Lord Eustace Percy.
	Sir John Simon.
	Sir John Wardlaw-Milne.

The said amendment is disagreed to.

Paragraph 195 is again read.

The further consideration of paragraph 195 is postponed.

Paragraphs 196 to 198 are again read and postponed.

Paragraphs 199 to 203 are again read.

It is moved by the Marquess of Reading, the Lord Ker (M. Lothian), and Mr. Foot. Pages 100 to 102, to leave out paragraphs 199 to 203 inclusive, and to insert the following new paragraphs :—

(" 199. There are, broadly, three possible ways of constituting the electorate for the federal legislature so far as British India is concerned, apart from the indirect method adopted in the Minto-Morley reforms, which now has few, if any, supporters : the ordinary system of direct election by electors in territorial constituencies : the indirect system in its group form, whereby the whole electorate is divided into small groups of primary voters, say 20 to 50, who elect secondary electors, who then elect the candidate in ordinary territorial constituencies : and the indirect system in the form in which the legislature of the units which, in the case of India would be the provinces, elect the members of the federal house. We will deal with these in reverse order."

" 200. We are opposed to the third alternative for five main reasons. In the first place it means that the provinces, in effect, will be able to control the Central Legislature and therefore the Ministry. The supreme problem in India is the maintenance of its constitutional unity. The breakdown of its central government is the greatest catastrophe which could overtake the country. Yet to constitute the central legislature by

what, in effect, will be provincial delegations, the majority of whom will hold their seats on the nomination, and at times of re-election at the discretion, of the Provincial Governments and the parties which support them in office, would, in our view aggravate the tendency to provincial separatism which already exists and endanger the unity of India. It might also confront the Governor-General with situations of great gravity if he alone had to stand for Indian unity as against provincial separatism. We see no reason for abandoning in the case of India the almost invariable practice of other federations that the Upper House should represent the units and the Lower House the nation. In the second place the system inevitably involves the confusion of provincial and all-India issues at times of election with bad results for both central and provincial legislatures. Legislatures ought to be elected on the issues which they are constitutionally responsible for dealing with. The indirect system under consideration means that the provincial elections may turn on all-India issues such as tariffs or income tax, in which case there will be no clear decision about the provincial issues which the legislatures will alone have to deal with in the next few years or that they may turn on provincial issues alone, in which case the electorate will have no voice or influence in all India issues. In the third place the system inevitably opens the door to corruption for it means that each member of the central legislature, which will deal with matters vitally affecting business and finance, will be elected by a number of provincial electors on the average not more than 7 or 8 in number. So far as we can ascertain the number of members of the Provincial Legislative Assemblies required to elect a member of the All India Legislative Assembly, according to the proposals for indirect election submitted to us would be as follows. –

	General Seats	*Moslem Seats.*	*Sikh Seats.*
Madras . .	8	4	—
Bombay .	9	5	
Bengal . .	8	7	-
U. P. .	8	6	-
Punjab . .	8	7	6
Bihar	6	5	-
C. P. . .	10	5	

"In the Council of State the equivalent numbers would be about the same, though at the first election the members would go through the strange process of electing two members, one after the other. The opportunities for corruption under a system which enables any seven or eight members of a provincial legislature to return a member of the Central Legislature needs no emphasis from us. Fourthly, the system of electing the central legislature by the provincial legislatures is bound to be extremely intricate and confusing with its combination of electoral colleges elected by enormous constituencies in some provinces with election by the provincial Upper Houses which are themselves elected in part by the Provincial Assemblies, in others. It is likely to be caucus ridden and it will inevitably make necessary large numbers of provincial bye-elections whenever an election to the central legislature takes place, with possibly unfortunate results on the stability of the provincial ministries. Finally, this form of indirect system involves reversing a system which has already been in operation for the Indian Legislative Assembly not unsuccessfully for thirteen years and which has the support of the great majority of Indian political leaders. It is sometimes said that the members of existing legislatures are not in adequate touch with their constituents, but this is almost inevitable so long as the legislature itself is without responsibility as it constitutionally is to-day. The contact with the constituencies is likely rapidly to increase with the advent of a measure of responsible government at the centre. In the

light of these considerations we feel that we have no option but to reject the method of composing the Central legislature by indirect election from the Provincial legislatures."

"201. The arguments for the second alternative, the group system of indirect election, are very strong. On the one hand the population of British India is over 250,000,000, which would mean a population of about 500,000 in every constituency, and with adult franchise an electorate of between 250,000 and 300,000 per member, even with a house as large as 500. Such an electorate would be far too large to make possible that effective contact between the representative and his constituents which is the necessary basis for the successful working of Parliamentary institutions. On the other hand there is a great deal to be said for the view that in a country the overwhelming majority of whose people are still illiterate and live in villages, the best basis for a representative system is that the electors for the central assembly should be men or women who have been chosen by small groups of villagers to vote on their behalf. If the groups were of say 25 persons, even adult suffrage at the primary stage would only result in 10,000 secondary electors per constituency in a house of 500 or 20,000 in a house of 250. We have, however, been reluctantly convinced by the report of the Indian Franchise Committee, which made a serious attempt to work out a system of this kind, and other evidence, that no group system is practicable to-day in India. The administrative difficulty involved in forming and polling the groups seem to be insuperable and the problem of framing any system of election within the group which will produce a truly representative electorate seems at present to be insoluble, owing to caste, communal and other divisions.")

"202. We are therefore driven to the conclusion that the right basis for the constitution of the Federal House is that proposed in the White Paper, namely direct election to the Legislative Assembly from territorial constituencies by an enlarged but still restricted electorate and indirect election to the Council of State from the Provincial Legislative Assemblies by the system of the single transferable vote. We think that this will produce that balance of representation at the centre between the provincial and national interests which the history of other federations shows to be both desirable and to have stood the test of experience. It avoids the constitution of the Council of State mainly by election from provincial Upper Houses, themselves partly the product of indirect elections, which might, as it seems to us, result in a federal second chamber which is unduly representative of vested interests and not sufficiently responsive to popular feeling and needs to be given equal power with an Assembly which is itself indirectly elected by the provincial assemblies. We are prepared to agree to second chambers in the provinces 16
provided they are possessed only of the power to delay and revise hasty or ill-judged legislation, for more is not necessary in the restricted sphere of provincial power. We are in favour of the White Paper proposal that the two houses of the central legislature, one of which is to represent the units by indirect election from the popular provincial house and the other the nation by direct election, should have equal powers. But we are opposed to any proposal whereby the two federal houses are indirectly elected by the provincial assemblies and Upper Houses respectively and possessed of equal powers."

"203. We think that the franchise proposed in the White Paper, namely the electorate which has exercised the franchise for the provinces since 1920 and has therefore gained experience, is a sensible extension and that with the proposals for the special representation of women, labour, landlords, commerce and depressed classes, it secures a reasonable representation to all the main sections and interests of the community.

We recognise the difficulty which candidates will have in establishing contact with their constituents in the large areas which the federal constituencies must necessarily comprise, especially so long as separate electorates continue. But the facilities for communication are daily increasing. India has indigenous institutions through which public opinion is able to express itself and with which candidates can get into touch. In almost all countries the radio and quick transport make possible constituencies far larger than were practicable a few years ago. The Indian Franchise Committee has shown that with 250 members for British India the number of electors ought not to exceed 30,000 to 40,000 in each constituency, that the average rural constituency will not exceed 6,000 to 12,000 square miles, and that these constituencies will be one half the size of the constituencies which have hitherto elected to the present Assembly. We admit the force of the view that under present conditions such constituencies will be difficult to manage, but we think that the objections to such constituencies are far less serious than those which we have urged against constituting the central legislature solely by indirect election from the provincial legislatives. Constituencies of immense area and containing enormous numbers of voters are inherent in large scale Federations, and in Canada, Australia and the United States have been in existence for many decades without impairing the system of representative government. While however we support the franchise proposals in the White Paper for the federal assembly, we believe that any considerable extension of the franchise towards adult franchise under a system of direct election to the Assembly would cause an inevitable breakdown. We do not believe that constituencies both of large size and containing an electorate of between 200,000 and 3,000,000 people can be made the basis of a healthy Parliamentary system. We think that Parliament and Indian public opinion should face these facts, and recognise that if the elections to the federal Assembly are to be direct in the sense that the electorate will vote directly for members of that Assembly and on federal issues alone, some system of group election will have to be contrived before any substantial extension of the federal franchise can take place. We are by no means convinced that this cannot be found. The group system apparently works with considerable success in many countries where conditions are not dissimilar to those of India, and we hope that Indian public opinion will recognise that if its declared goal of adult suffrage is to be reached it must contrive some system of group or secondary election to make it practicable.")

It is moved by Mr Cocks, Mr Foot and Mr Morgan Jones, as an amendment to the above motion, to insert the proposed new paragraphs 199 to ("We") in line 16 of the proposed new paragraph 202:—

Objected to.

On Question.

Contents (5)	Not Contents (18)
Marquess of Reading	Marquess of Salisbury.
Lord Kerr (M. Lothian)	Marquess of Zetland.
Mr. Cocks	Marquess of Linlithgow.
Mr. Foot	Earl of Lytton.
Mr. Morgan Jones	Lord Hardinge of Penshurst.
	Lord Rankeillour.
	Lord Hutchison of Montrose.
	Mr. Butler.
	Major Cadogan.
	Sir Austen Chamberlain.
	Sir Reginald Craddock.

Contents (5). Not Contents (18)— (continued.)

Mr. Davidson.
Sir Samuel Hoare.
Sir Joseph Nall.
Lord Eustace Percy.
Sir John Simon.
Sir John Wardlaw-Milne.
Earl Winterton.

The said amendment to the above motion is disagreed to.

The original amendment is again moved.

The same is disagreed to.

Paragraph 199 is again read.

It is moved by Mr. Cocks, Mr. Morgan Jones, and the Lord Snell. Page 100, line 12, to leave out ("may also be argued") and to insert ("should also be pointed out").

The amendment, by leave of the Committee, is withdrawn.

It is moved by Mr. Cocks, Mr. Morgan Jones, and the Lord Snell. Page 100, lines 16 to 30 to leave out from ("system,") in line 16 to the end of the paragraph and to insert ("Bearing in mind the strength of Indian opinion in "this matter we have come to the conclusion, notwithstanding the objections "which can be urged against it, that there is no alternative to the adoption "of a system of direct election.")

The amendment, by leave of the Committee, is withdrawn

It is moved by the Lord Eustace Percy. Page 100, line 30, at the end to insert ("Indeed, any considerable extension of the franchise under a system of direct election would cause an inevitable breakdown. We do not believe "that constituencies both of large size and containing an electorate of between "200,000 and 300,000 people can be made the basis of a healthy parliamentary "system. We think that Parliament and Indian public opinion should face "these facts and should recognize that direct election apart from its immediate merits or demerits at the present time, cannot provide a sound "basis for Indian constitutional development in the future. We cannot "believe that it would be wise to commit India at the outset of her "constitutional development to a line which must prove to be a blind alley."

The same is agreed to.

Paragraph 199 is again read as amended.

The further consideration of paragraph 199 is postponed

Paragraphs 200 and 201 are again read and postponed.

The following amendment is laid before the Committee :—

Mr. Attlee, Mr. Cocks, Mr. Morgan Jones and the Lord Snell to move. Pages 100 and 101, to leave out paragraphs 200 and 201.

The consideration of the said amendment is postponed.

The further consideration of paragraphs 200 and 201 is postponed.

Paragraph 202 is again read.

It is moved by Mr. Cocks, Mr. Morgan Jones, and the Lord Snell. Page 101, to leave out paragraph 202 and to insert the following new paragraph :—

("202. We have examined the proportion of members allocated to the various Provinces, and while we recognize that a smaller Province must have some addition to its population ratio, we are unable to accept

the differentiation made in favour of Bombay and the Punjab at the expense of Madras, Bengal and the United Provinces. We see no reason why Bombay should be allocated almost two members per million while Madras and Bengal get less than one. We consider that all Provinces, with the exceptions mentioned above, should come in on an equal basis.

"We have already expressed our objections to special representation being given to the landlords, the universities, commerce and industry, and these objections hold good at the Centre as well as in the Provinces. We recognize, however, that there is a case for some representation of commerce and industry at the Centre, in view of the character of the questions which will come up for decision here, and we should therefore, as a temporary measure, be prepared to see some r presentation given to those interests In other respects, we accept the allocation of seats given in the White Paper, subject to the following variations :-

"The White Paper proposes that in the Federal Assembly Labour should be given ten seats as against twenty-six assigned altogether to the representatives of Commerce and Industry, the Landlords and the Europeans. We regard this as wholly disproportionate as it would mean that Labour would only have 4 per cent. of the total seats from British India, and that a few thousand Europeans would have a greater voting strength than the many millions of industrial and rural wage earners. As is pointed out by the Indian Franchise Committee, Labour legislation will be predominantly a Federal Subject under the new constitution, while the restricted franchise at the Centre will not bring on the electoral roll the same proportion of the working classes as in the case of the provincial legislatures. It is, therefore, especially important that Labour representation should be adequate.

"We recommend, therefore, that the seats allotted to Labour should be raised to twenty-six.

"We note that according to the White Paper the distribution of seats is to be on a provincial basis. We suggest that this requires modification. Certain trades and industries, such as textiles and railways are distributed over more than one province If seats should be allocated on a purely provincial basis, certain trade unions would be handicapped, while others would be given more than their reasonable quota of representation. We recommend that Labour seats should be fixed on an industrial basis with due regard to provincial considerations.

"We accept the provisions of the White Paper for the Federal Franchise, subject to the amendments which we have suggested in respect of the qualifications of women electors, and to our proposals in regard to Labour representation, but we desire to state that we regard the provision as only a temporary one until a means can be found of extending the franchise and of making the British Indian side of the Federal Legislature more representative of the mass of the people.")

The same is disagreed to.

It is moved by the Lord Eustace Percy. Page 101, lines 15 to 18, to leave out from ("bodies") in line 15, to ("we") in line 18, and to insert ("There 'are interesting precedents for this, for instance. in the Dutch East Indies. 'and there is much to be said for the view that, in principle, it is the best 'form of indirect election. Its practical merits, however, depend upon the 'character of the local bodies. In India, this form of indirect election was a 'prominent feature of the Morley-Minto Constitution, and the general tenor 'of the evidence we have received is that the system did not work well and 'that this experience of it has created a strong prejudice against it in the 'mind of many Indians. Here again, we would repeat what we have said 'in paragraph 129, that we do not wish to rule out the introduction of some 'system on these lines in the future and that the problem is essentially one

"which Indians should consider for themselves; but we are satisfied that, "at the present time, it would be a mistake to base the Federal Assembly "upon this form of election.")

The amendment, by leave of the Committee, is withdrawn.

Paragraph 202 is again read.

The further consideration of paragraph 202 is postponed.

It is moved by the Marquess of Reading, the Lord Ker (M. Lothian), and Mr. Foot. Page 101, after paragraph 202 to insert the following new paragraph :—

("202A. We feel strongly, however, that it is impossible for Parliament to lay down to-day the exact form which the Indian Federal Legislature is to take for any long period ahead. This question has been examined by many Commissions and Committees and Round Table Conferences and every proposal which has emerged has been recognised to be the kind of tentative and uncertain compromise which is inherent in an attempt to create a Federation on a scale and of a character hitherto without precedent. We feel, therefore, that while our proposals seem to us the best combination which is practical at the present time, it is inevitable that further consideration should be given to the composition of the central legislature in the light of practical experience of the working of the new constitution. We do not propose that there should be any formal examination of the problem by a statutory Commission after any specific date, for we think that experience has shown that there are strong objections to automatic provisions of this kind. But we consider that it should be clearly understood that after sufficient time has elapsed to enable clear judgments to be formed of the way in which the constitution works and of the new political forces it has brought into being, it may be necessary to propose amendments and that the Indian Federal legislature should lay its recommendations before Parliament in the form recommended in later paragraphs of this Report.") **Indirect election to be regarded in the nature of an experiment.**

The same is agreed to.

New paragraph 202A is again read.

The further consideration of paragraph 202A is postponed.

Paragraph 203 is again read.

It is moved by Mr. Cocks, Mr. Morgan Jones, and the Lord Snell. Pages 101 and 102, to leave out Paragraph 203.

The same is disagreed to.

Paragraph 203 is again read.

The further consideration of paragraph 203 is postponed.

Paragraph 204 is again read.

It is moved by Mr. Cocks and Mr. Morgan Jones. Page 102, lines 22 to 27, to leave out from the beginning of line 22 to the end of the paragraph and to insert ("agree with this proposal.")

Objected to.

On Question :—

Contents (2).	Not Contents (15).
Mr. Cocks.	Marquess of Salisbury.
Mr. Morgan Jones.	Marquess of Zetland.
	Marquess of Linlithgow.
	Marquess of Reading.
	Lord Ker (M. Lothian).
	Lord Hardinge of Penshurst.
	Lord Rankeillour.

Contents (2).	Not Contents (15)—(continued.)
	Lord Hutchison of Montrose.
	Mr. Butler.
	Sir Austen Chamberlain.
	Sir Reginald Craddock
	Mr. Davidson.
	Sir Samuel Hoare.
	Lord Eustace Percy
	Sir John Wardlaw-Milne.

The Earl Winterton did not vote

The said amendment is disagreed to

Paragraph 204 is again read

The further consideration of paragraph 204 is postponed

Paragraph 205 is again read

It is moved by the Lord Eustace Percy Page 102, line 34, after (Paper") to insert ('If the size of the Council of State were materially reduced and if, 'as we have recommended, one third of its membership is replaced every 'three years, the number of members whom provincial electoral colleges would be called upon to choose at any given election would be too small 'for the method of the single transferable vote to produce an equitable 'result from the point of view of minorities, and we should greatly regret 'the introduction of a communal basis for the Federal Upper House There 'is another consideration affecting the Federal House of Assembly It would 'be difficult, if the size of this House were reduced, to make any proportionate 'reduction in the number of seats assigned to special interests, since this 'would in several instances deprive them of seats which they have in the 'existing Legislative Assembly These special interest seats, apart from 'those assigned to European commerce and industry, would in practice be 'almost entirely occupied by members of the Hindu community We think 'it important that the Muhammadan community should have secured to it, 'as the White Paper proposes, one third of all the British-India seats ; but 'if the number of the special interest seats is to remain undisturbed, the 'application to a substantially smaller House of the undertaking given to the 'Muhammadans would result in a disproportionate number of the ordinary '(non special) seats being allocated to the Muhammadans.')

The same is agreed to

It is moved by the Lord Eustace Percy Page 102, lines 34 and 35, to leave out (" In the first place,') and to insert (' In addition to these considerations " in regard to British Indian representation, it must also be borne in mind " that ')

The same is agreed to

It is moved by the Lord Eustace Percy. Page 103, lines 3 to 5, leave out from (" figure ') in line 3 to (If) in line 5

The same is agreed to

It is moved by the Lord Eustace Percy Page 103, lines 5 to 27 to leave out from (' numbers) in line 5 to the end of line 27

The same is agreed to

Paragraph 205 is again read as amended

The further consideration of paragraph 205 is postponed

It is moved by the Lord Eustace Percy Page 103, after paragraph 205, to insert the following new paragraph .

Proposal for unicameral Legislature rejected.

(" 205A We have carefully considered the proposal that the Federal Legislature should consist of one Chamber only We recognise that there is much to be said for this proposal, but, on the whole, we do not

feel able to reject the view which was taken by the Statutory Commission and which has been also consistently taken by, we think, the great bulk of both British and Indian opinion during the whole course of the Round Table Conferences, that the Federal Legislature should be bi-cameral Certainly, a reversal of this view would be distasteful to nearly all if not to all, the Indian States ")

The same is agreed to

New paragraph 205A is again read

The further consideration of paragraph 205A is postponed

Paragraph 206 is again read and postponed

Paragraph 207 is again read.

It is moved by Mr Morgan Jones, Mr Cocks, and the Lord Snell Page 104, lines 11 to 13, to leave out from the beginning of line 11 to the end of the sentence and to insert ("We consider that the introduction of status unnecessarily complicates the question and we would desire to see laid down a definite population basis for representation, though we recognize that it may be difficult to obtain consent to this simplification In any event, we think that there should be a definite formula which could be applied to every State, so that if, as may well be, the Federation is built up by the gradual accession of States, there may be at hand the means of allocating forthwith the representation to which any particular State is entitled ")

The same is disagreed to

It is moved by Sir Samuel Hoare and Mr Butler Page 104, line 18, at the end to insert (" It would also we suggest, contribute to the selection of better qualified States' representatives in the Federal Legislature if adjacent States at any rate those not entitled under the scheme proposed to continuous individual representation, were grouped together regionally for the selection of joint representatives in the Federal Legislature who would retain their seats throughout its full term ")

The same is agreed to

Paragraph 207 is again read as amended

The further consideration of paragraph 207 is postponed

Paragraph 208 is again read

It is moved by Mr Cocks Mr Morgan Jones, and the Lord Snell Page 104 lines 25 to 39, to leave out from (" unfilled") in line 25 to the end of the paragraph and to insert (" We agree with this and are opposed to the suggestion that weightage should be given to the States representatives if the full number of States has not joined the Federation We think that by allowing only such representation to the States side as is proportionate to the number and population of the States acceding there will be an incentive on the part of those in the Federation to work for the inclusion of others)

The same is disagreed to

Paragraph 208 is again read.

The further consideration of paragraph 208 is postponed.

Paragraphs 209 to 213 are again read and postponed

Ordered, that the Committee be adjourned to Monday next at half-past Four o'clock.

Die Lunae 9° Julii 1934.

Present:

LORD ARCHBISHOP OF CANTERBURY.
MARQUESS OF SALISBURY.
MARQUESS OF ZETLAND.
MARQUESS OF LINLITHGOW.
MARQUESS OF READING.
EARL OF DERBY.
EARL PEEL.
VISCOUNT HALIFAX.
LORD MIDDLETON.
LORD KER (M. LOTHIAN).
LORD HARDINGE OF PENSHURST.
LORD SNELL.
LORD RANKEILLOUR.
LORD HUTCHISON OF MONTROSE.
MR. ATTLEE.
MR. BUTLER.
MAJOR CADOGAN.
MR. COCKS.
SIR REGINALD CRADDOCK.
MR. DAVIDSON.
MR. FOOT.
SIR SAMUEL HOARE.
MR. MORGAN JONES.
LORD EUSTACE PERCY.
SIR JOHN WARDLAW-MILNE.
EARL WINTERTON.

THE MARQUESS OF LINLITHGOW in the Chair

The Order of Adjournment is read.
The Proceedings of Friday last are read
Paragraph 214 is again read.
It is moved by Mr. Cocks, and Mr. Morgan Jones. Page 106, lines 15 to 37, to leave out from ("Assemblies.") in line 15 to the end of the paragraph and to insert (" and we see no reason why the same principle should not be applied " to the Federal Legislature, as in the case of the United Kingdom.")
Objected to.
On Question.—

Contents (3).
Lord Ker (M. Lothian).
Mr. Cocks.
Mr. Morgan Jones.

Not Contents (17).
Lord Archbishop of Canterbury.
Marquess of Salisbury.
Marquess of Linlithgow.
Earl of Derby
Earl Peel.
Viscount Halifax.
Lord Middleton.
Lord Hardinge of Penshurst.
Lord Rankeillour.
Lord Hutchison of Montrose.
Mr. Butler.
Major Cadogan.
Sir Reginald Craddock.
Mr. Davidson.
Sir Samuel Hoare.
Lord Eustace Percy.
Sir John Wardlaw-Milne.

The amendment is disagreed to.
It is moved by Mr. Cocks, Mr. Morgan Jones, and the Lord Snell. Page 106, lines 23 to 27 to leave out from ("Session.[1]"), in line 23 to the end of the paragraph.
Objected to.

[1]White Paper, Proposals 38, 11 and 48.

All amendments are to the Draft Report (*vide infra*, paras. 1–428, pp. 470–491; and *vide supra*, paras. 43—453, pp. 64—253) and NOT to the Report as published (Vol. I, Part I.)
A Key is attached (see pp. 521—544), showing on which pages of the Proceedings amendments to each paragraph can be found.

On Question :—

Contents (6).	Not Contents (16).
Lord Archbishop of Canterbury.	Marquess of Salisbury.
Lord Ker (M. Lothian).	Marquess of Linlithgow.
Lord Snell.	Earl of Derby.
Mr. Cocks.	Earl Peel.
Mr. Foot.	Viscount Halifax.
Mr. Morgan Jones.	Lord Middleton.
	Lord Hardinge of Penshurst.
	Lord Rankeillour.
	Lord Hutchison of Montrose.
	Mr. Butler.
	Major Cadogan.
	Sir Reginald Craddock.
	Mr. Davidson.
	Sir Samuel Hoare.
	Lord Eustace Percy.
	Sir John Wardlaw-Milne.

The amendment is disagreed to.

It is moved by Mr. Cocks, Mr. Morgan Jones, and the Lord Snell. Page 106, lines 35 to 37, to leave out from (" forthwith ") in line 35 to the end of the paragraph.

The same is agreed to.

Paragraph 214 is again read as amended.

The further consideration of paragraph 214 is postponed.

Paragraph 215 is again read.

It is moved by Mr. Morgan Jones, Mr. Attlee, Mr. Cocks, and the Lord Snell. Page 107, lines 5 to 9, to leave out from the beginning of line 5 to the end of the sentence in line 9.

The same is disagreed to.

Paragraph 215 is again read.

The further consideration of paragraph 215 is postponed.

Paragraph 216 is again read.

It is moved by Sir John Wardlaw-Milne, Page 108, lines 2 and 3, to leave out from ("is ") in line 2 to (" be ") in line 3 and to insert (" that there should be no such prohibition, but that the matter should ").

The same is agreed to.

Paragraph 216 is again read as amended.

The further consideration of paragraph 216 is postponed.

Paragraph 217 is again read.

It is moved by the Lord Eustace Percy and the Marquess of Zetland. Page 108, line 31, to leave out (" though ") and to insert (" now that ").

The same is agreed to.

It is moved by the Lord Eustace Percy and the Marquess of Zetland. Page 108, lines 34 to 36, leave out from (" other,") to the end of the sentence and to insert (" a nexus of a new kind must be established between the " Federation and its constituent units.")

The same is agreed to.

It is moved by the Lord Snell, Mr. Attlee, Mr. Cocks, and Mr. Morgan Jones. Page 108, after the above amendment to insert (" We are impressed by " the possible dangers of a too strict adherence to the principles of what

"is known as Provincial Autonomy The Indian Statutory Commission in "its recommendations for Provincial Autonomy was, we think, not unaffected "by the desire to give the largest possible ambit to autonomy in the Provincial "sphere, owing to their inability at that time to recommend responsibility at "the Centre The larger measure of Indian self-government which has "obtained in the Provinces during the past twelve years has also, we think, "tended to develop, and perhaps over develop, a desire for complete freedom "of control from the Centre ")

The same is agreed to

Paragraph 217 is again read as amended

The further consideration of paragraph 217 is postponed

Paragraph 218 is again read

It is moved by the Lord Eustace Percy and the Marquess of Zetland Page 109, line 2, after (" officers ") to insert (" subject in the case of the "States, to the terms of the Ruler's Instrument of Accession ')

The same is agreed to

It is moved by the Lord Eustace Percy and the Marquess of Zetland Page 109, lines 4 to 11, to leave out from (" Government) in line 4 to the second (" The ") in line 11

The same is agreed to

It is moved by the Lord Eustace Percy Page 109, lines 20 to 21 to leave out from (part ") in line 20 to the first (to ") in line 21, and to insert (" but in addition to this general statement of a moral obligation, the White " Paper proposes to empower the Federal Government)

The same is agreed to

It is moved by the Lord Eustace Percy and the Marquess of Zetland Page 109, line 29 at the end to insert (In the case of the States it is proposed that the Ruler should accept the same general moral obligation which as we have said, will rest upon the Provincial Governments to secure that due effect is given within the territory of his State to every Federal Act which applies to that territory But we think that the White Paper rightly proposes that any general instructions to the Government of a State for the purpose of ensuring that the federal obligation of the State are duly fulfilled shall come directly from the Governor General himself ")

The same is agreed to

Paragraph 218 is again read as amended

The further consideration of paragraph 218 is postponed

Paragraph 219 is again read

It is moved by the Lord Eustace Percy and the Marquess of Zetland Page 109 leave out paragraph 219 and to insert the following new paragraph

Distinction between legislation in the Exclusive and Concurrent fields.

(" 219 We are of opinion that the proposals in the White Paper on this subject require modification in two directions In the first place the White Paper draws no distinction between the administration and execution of Federal Acts with respect to subjects on which the Federal Legislature is alone competent to legislate (List 1) and the administration and execution of Federal Acts in the concurrent field (List 3) It is evident that in its exclusive field the Federal Government ought to have power to give directions to a Provincial Government as proposed in the White Paper , but it is much more doubtful whether it should have such power in the concurrent field The objects of legislation in this field will be predominantly matters of Provincial

concern The Federal Legislature will be generally used as an instrument of legislation in this field merely from considerations of practical convenience, and, if this procedure were to carry with it automatically an extension of the scope of Federal administration, the Provinces might feel that they were exposed to dangerous encroachment On the other hand, the consideration of practical convenience which will prompt the use of the Federal Legislature in this field will often be the need for securing uniformity in matters of social legislation, and uniformity of legislation will be useless if there is no means of enforcing reasonable uniformity of administration While, therefore, we think that the Federal Government should have no general power of giving directions to the Provincial Governments in regard to the administration of Federal Acts in the concurrent field, it is important that the Constitution should not impose an absolute bar to the exercise of such power by the Federal Government in cases where it is recognised to be necessary")

The same is agreed to

New paragraph 219 is again read

The further consideration of paragraph 219 is postponed

Paragraph 220 is again read

It is moved by the Lord Eustace Percy and the Marquess of Zetland Page 110, line 1, at the beginning to insert ("In the second place") and to leave out ("however")

The same is agreed to

It is moved by the Lord Eustace Percy and the Marquess of Zetland. Page 110, line 4, after ("Government") to insert ("Under the White "Paper proposals")

The same is agreed to

Paragraph 220 is again read as amended

The further consideration of paragraph 220 is postponed

It is moved by the Lord Rankeillour Page 110, after paragraph 220, to insert the following new paragraph —

("220A What, however, is the ultimate remedy in the event of inveterate contumacy on the part of the Province? If it be considered to amount to a breakdown of the Constitution the Governor could be bidden by the Governor General to use his reserve powers accordingly It is however, easy to imagine that the quarrel, however, obstinate, might be confined to a sphere of no great importance and that the application of the ultimate weapon of authority would be disproportionate, if not grotesque We suggest that in such a situation power should be given to withhold revenue which would otherwise be due to the Province In the case of a State there appears to be no remedy under the proposals of the Government except such influence as the Viceroy might exercise in the sphere of paramountcy")

The same is disagreed to

Paragraph 221 is again read

It is moved by the Lord Eustace Percy and the Marquess of Zetland Page 110, to leave out paragraph 221

The amendment, by leave of the Committee, is withdrawn

It is moved by Sir Samuel Hoare and Mr Butler Page 110, line 40, after ("fit") to insert ("The same principle should apply to matters in "which action or inaction by a Provincial Government within its own "exclusive sphere affects the administration of an exclusively federal "subject- that is to say, it should be open to the Federal Government to "give directions to a provincial Government which is so carrying on the

"administration of a provincial subject as to affect prejudicially the efficiency of a federal subject, with a discretionary power in the Governor-"General in the last resort to secure the carrying out of such directions "through orders issued by him to the Governor.")

The same is agreed to.

Paragraph 221 is again read as amended.

The further consideration of paragraph 221 is postponed.

Paragraph 222 is again read and postponed.

Paragraph 223 is again read.

It is moved by the Lord Eustace Percy. Page 111, line 40, to leave out ("extra-constitutional") and to insert ("supplementary.")

The same is agreed to.

It is moved by Mr. Attlee, Mr. Cocks, Mr. Morgan Jones, and the Lord Snell. Page 111, lines 44 to 46, to leave out from ("we") in line 44 to the end of the sentence and to insert ("consider that every effort should "be made to develop a system of inter-Provincial conferences, at which "administrative problems common to adjacent areas as well as points of "difference may be discussed and adjusted.")

The same is agreed to

It is moved by the Lord Eustace Percy Page 111, line 47, to page 112, line 5, to leave out from ("us,") in line 47, page 111, to the end of the paragraph on page 112 and to insert ("and we draw attention in later "paragraphs of our Report (for instance, paragraphs 227, 291 and 296) to a "number of matters on which it is, in our view, important that the Pro-"vinces should co-ordinate their policy, in addition to the financial pro "blem which we discuss in paragraph 259. It is obvious that, if depart-"ments or institutions of co-ordination and research are to be maintained "at the centre in such matters as agriculture, forestry, irrigation, educa-"tion and public health, and if such institutions are to be able to rely on "appropriations of public funds sufficient to enable them to carry on "their work, the joint interest of the Provincial Governments in them "must be expressed in some regular and recognised machinery of inter-"Governmental consultation. Moreover, we think that it will be of vital "importance to establish some such machinery at the very outset of the "working of the new constitution, since it is precisely at that moment that "institutions of this kind may be in most danger of falling between two "stools through failing to enlist the active interest either of the Federal "or the Provincial Governments, both of whom will have many other "more immediate preoccupations There is, however, much to be said "for the view that, though some such machinery may be established at "the outset, it cannot be expected to take its final form at that time, and "that Indian opinion will be better able to form a considered judgment as "to the final form which it should take after some experience in the "working of the new constitution. For this reason we doubt whether it "would be desirable to fix the constitution of an inter Provincial Council "by statutory provisions in the Constitution Act, but we feel strongly the "desirability of taking definite action on the lines we have suggested as "soon as the Provincial Autonomy provisions of the Constitution come "into operation. We think further that, although the Constitution Act "should not itself prescribe the machinery for this purpose, it should "empower His Majesty's Government to regulate the working of such co-"ordinating machinery as it may have been found desirable to establish, "in order that at the appropriate time means may thus be available for "placing these matters upon a more formal basis.")

The same is agreed to.

Paragraph 223 is again read as amended.

The further consideration of paragraph 223 is postponed.

Paragraphs 224 to 227 are again read and postponed.

The Appendix (II) is again read.

It is moved by Mr. Cocks, Mr Attlee, Mr. Morgan Jones, and the Lord Snell Pages 114-116, to leave out from the beginning of the Appendix, page 114, to the end of line 11, page 116.

The amendment, by leave of the Committee, is withdrawn.

The Appendix (II) is again read.

The further consideration of Appendix (II) is postponed.

The Appendix (III) is again read and postponed.

Paragraphs 228 and 229 are again read and postponed

Paragraph 230 is again read.

It is moved by Sir Reginald Craddock. Page 130, line 24, at the end to insert :—("On the other hand there are certain laws which come within "the description of the great Indian Codes and have all been enacted by "the Central Legislature They have been in force throughout India for "long periods, in one case extending to seventy five years Some of "these Acts have scarcely been amended at all, others have been sub-"stantially revised, but in all cases after the fullest consultation with the "Provincial Governments, High Courts, Judicial and Executive Authori-"ties and various Associations most concerned with their subject matter. "In this category may be included—

"The Indian Penal Code

"The Codes of Criminal and Civil Procedure.

"The Indian Evidence Act

"The Indian Contract Act.

"The Indian Limitation Act.

"The Indian Registration Act

"The Land Acquisition Act

"The Negotiable Instruments Act.

"Some of these Acts confer rule making powers upon Local Govern-"ment, where it is considered advisable to provide for local differences, "but in all essential particulars they lay down principles applicable to the "whole of India We would therefore reserve these Acts to the Centre "with the proviso that the Provincial Governments may only introduce "amending legislation with the prior approval of the Governor General. "The interpretation of all these enactments has formed the subject of "rulings of the various High Courts which are followed throughout India "and constitute throughout the country the well defined rights and obli-"gations which are accepted and understood by large sections of the "people, not excluding the more intelligent of the rural population.")

The amendment, by leave of the Committee, is withdrawn.

Paragraph 230 is again read.

The further consideration of paragraph 230 is postponed.

Paragraph 231 is again read and postponed.

Paragraph 232 is again read.

It is moved by the Lord Eustace Percy. Page 130, lines 44 and 45, to leave out from ("residue") in line 44 to the end of the sentence.

The same is agreed to.

It is moved by the Lord Eustace Percy. Page 131, lines 1 to 5, to leave out from ("elsewhere,") in line 1 to the end of the sentence, and to insert ("the method adopted in the White Paper has one definite con-"stitutional advantage, apart from its virtues as a compromise between "two sharply opposing schools of thought in India.")

The same is agreed to.

It is moved by the Lord Eustace Percy. Page 131, line 29, to leave out ("involves") and to insert ("would involve not only the reservation to the "Federal Legislature of a generally defined overriding power, but also").

The same is agreed to.

Paragraph 232 is again read as amended

The further consideration of paragraph 232 is postponed.

Paragraph 233 is again read and postponed.

Paragraph 234 is again read.

It is moved by the Lord Eustace Percy. Page 133, lines 11 to 21, leave out from ("concerned.") in line 11 to ("At") in line 21.

The same is agreed to.

Paragraph 234 is again read as amended.

The further consideration of paragraph 234 is postponed.

Paragraphs 235 to 238 are again read and postponed.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 135, after paragraph 238 to insert the following new paragraph:

The Railway Police.

("238A. We think it right to take this opportunity of drawing attention to the control of Railway Police as settled by the distribution of subjects. Railway Police in India is at present classified as a provincial subject, but the Central Government retains, under the existing Devolution Rules, the power to determine conditions as regards limits of jurisdiction and contributions by the Railways to the cost of maintenance. We are informed that for many years past the question of the allocation of the cost of the Railway Police between the provincial Governments on the one hand and the Railways on the other has been a subject of controversy, and we have considered the best means of avoiding or at all events mitigating, such controversies under the new Constitution One course, which has the obvious attractions of theoretical simplicity, would be to make the policing of the Railways, along with the general control of Railways, an exclusively federal subject, thereby making the Federal Government solely responsible for the control of the administration, and for the financing of the whole of the Railway Police. We are satisfied, however, that such an arrangement, which would reverse a practice of many years standing, would gravely prejudice the efficiency not merely of the Railway Police but of the Provincial Police as well. It is essential that the regular Police Force of a Province should act in close co-operation with the separately organised Railway Police and that both should be subordinate to the same Inspector General. This result could not be secured if the control of the two bodies were in separate hands. We feel no doubt, therefore, that the right solution is to classify Railway Police as an exclusively provincial subject, that the Railway Police Force of each Province should be financed in the main from provincial revenues, but that there should be as at present a contribution from the Federal Government to the Provinces, which would, in fact, consist of the appropriate contribution from the Railways, and the amount of which would necessarily have

to be determined by the Federal Government. But, although the administration of the Railway Police Force itself would thus remain an exclusive responsibility of the Provinces, it is clear that inefficiency or inadequacy of strength in the Railway Police would at once affect the administration of the federal subject of Railways, and we are satisfied that the recommendations which we have made elsewhere[1] would secure to the Federal Government adequate means of ensuring that the effective administration of the federal subject of Railways did not suffer through inadequacy or inefficiency on the part of the Railway Police. The Federal Government would be entitled, if it felt called upon to do so, to direct any or all of the provincial Governments so to order its Railway Police as to bring them up to the requisite standard of efficiency, and there would be an ultimate right residing in the Governor General, at his discretion, in case directions from his Government to any or all of the Provincial Governments on the subject of the administration, the efficiency or the strength of the Railway Police were not complied with, to give the necessary orders to the Governor, which the latter in virtue of his special responsibility to secure the execution of orders lawfully issued by the Governor General, would be in a position to get executed both administratively and so far as supply was concerned. The position is different in the States, where for the most part jurisdiction over railway lands has been ceded to the Crown and is exercised either through Police specially appointed for that purpose or through the agency of Provincial Railway Police. In cases where railway jurisdiction has been retained and is exercised by the State the proposals in the White Paper[2] defining the administrative relations between the Federal Government and the States provide the Governor General with an appropriate corresponding power to secure the same result as that to be secured under our proposal in the Provinces.")

The same is agreed to.

New Paragraph 238A is again read.

The further consideration of paragraph 238A is postponed

It is moved by Mr. Cocks, Mr. Morgan Jones, and the Lord Snell. Page 135, after paragraph 238A, to insert the following new paragraph:—

("238B. It is proposed in the White Paper that such subjects as Health Insurance and Invalid and Old Age Pensions should be subjects of Provincial Legislation. We see serious objection to this, and consider that they should be included in the Concurrent List. While it is necessary that the more industrialized Provinces should be able to legislate on these subjects in the interests of the urban workers and should not have to wait for the concurrence of those which are predominantly rural, it is undesirable to exclude the possibility of All India legislation which may well become necessary in order that there should be uniformity of treatment of the workers as between Province and Province and that industry in one Province should be burdened with obligations not imposed in another. Mr. N. M. Joshi, in the Memorandum submitted by him, argued that social insurance should also be included in the list of Federal subjects, but here, again, we consider it would be better that it should be in the concurrent list. We consider that in order to obtain an All-India Code of Labour and social legislation it is necessary that the Federal Legislature should have power to pass legislation imposing financial liabilities on the Provincial Governments, but that where this is done grants-in-aid from Federal revenues should be paid to the Provinces and also to such Indian States as are prepared to put in force such legislation. It should, in our view, follow that there should be a central inspection and a measure of control, wherever such grants are made. We consider Labour Legislation.

[1] *Supra*, paras. 218-221.

[2] White Paper proposal, para. 129

that there seems much to be said for utilizing the machinery of adoptive Acts as used in Great Britain in connection with Local Government legislation. We have to endeavour to steer a course between delay caused by the difficulty of getting less advanced Provinces to agree to such legislation, and the possibility of friction in such matters as factory legislation as between Province and Province or the Provinces and the States. The mechanism of the adoptive Act supported by grants-in-aid in return for inspection seems to us unobjectionable in theory and useful in practice.")

Objected to.

On Question:—

Contents (3).

Lord Snell.
Mr. Cocks.
Mr. Morgan Jones.

Not Contents (16).

Lord Archbishop of Canterbury.
Marquess of Salisbury.
Marquess of Zetland.
Marquess of Linlithgow.
Marquess of Reading.
Earl Peel
Viscount Halifax.
Lord Middleton.
Lord Ker (M. Lothian).
Lord Rankeillour.
Lord Hutchison of Montrose
Mr. Butler.
Major Cadogan.
Sir Reginald Craddock
Mr. Davidson
Mr. Foot.
Sir Samuel Hoare.
Sir John Wardlaw-Milne.

The Lord Eustace Percy did not vote.

The said amendment is disagreed to.

Paragraphs 239 and 240 are again read and postponed.

The Revised lists are again read and postponed.

Paragraphs 241 and 242 are again read and postponed

Paragraph 243 is again read.

It is moved by Sir Samuel Hoare and Mr. Butler Page 146, line 32, at end to insert ("But the resources of the Centre comprise those which "should prove most capable of expansion in a period of normal "progress.")

The same is agreed to.

Paragraph 243 is again read as amended.

The further consideration of paragraph 243 is postponed.

Paragraph 244 is again read.

It is moved by the Lord Eustace Percy. Page 147, lines 2 to 6, to leave out from the beginning of line 2 to the end of the paragraph.

The same is agreed to.

Paragraph 244 is again read as amended.

The further consideration of paragraph 244 is postponed.

Paragraph 245 is again read.

It is moved by the Lord Eustace Percy. Page 147, line 7, to leave out from the beginning of line 7 to the end of line 13 and to insert ("The Provincial claim to income tax has been given added impetus "by the attitude of the States in the matter of direct taxation. They "have made it plain that, while they are prepared to concede to the "Federal Government the same rights of indirect taxation in the States "as it will possess in British India, they are not prepared to concede to it "the right to impose taxes on income within their territories. This "is an obvious anomaly. Its practical effect on Federal finances is not, "indeed, at the present moment very great. Indirect taxation consti- "tutes some four-fifths of the Central revenues, and the yield of an "income tax imposed on the States would, in all probability, be low. "It does, however, create an obvious theoretical difficulty in treating "income tax imposed on British India alone as predominantly a "Federal tax. While we are on this subject, however, it is only right "to recognise that, if the entry of the States creates one anomaly, it "removes another very serious one.")

The further consideration of the said amendment is postponed till to-morrow.

The further consideration of Paragraph 245 is postponed till to-morrow.

Ordered that the Committee be adjourned till to-morrow at half past Ten o'clock.

Die Martis 10° Julii 1934

Present:

LORD ARCHBISHOP OF CANTERBURY.
LORD CHANCELLOR.
MARQUESS OF SALISBURY.
MARQUESS OF ZETLAND.
MARQUESS OF LINLITHGOW.
MARQUESS OF READING.
EARL OF DERBY.
EARL OF LYTTON.
EARL PEEL.
VISCOUNT HALIFAX.
LORD MIDDLETON.
LORD KER (M. LOTHIAN).
LORD RANKEILLOUR.
MR. ATTLEE.
MR. BUTLER.
MAJOR CADOGAN.
SIR AUSTEN CHAMBERLAIN.
MR. COCKS.
SIR REGINALD CRADDOCK.
MR. DAVIDSON.
MR. FOOT
SIR SAMUEL HOARE.
MR. MORGAN JONES.
SIR JOSEPH NALL.
LORD EUSTACE PERCY
SIR JOHN WARDLAW MILNE.
EARL WINTERTON.

THE MARQUESS OF LINLITHGOW in the Chair.

The Order of Adjournment is read.

The Proceedings of yesterday are read.

Paragraph 215 is again considered.

The motion of the Lord Eustace Percy. Page 147, line 7, to leave out from the beginning of line 7 to the end of line 13 and to insert ("The Provincial claim to income tax has been given added impetus "by the attitude of the States in the matter of direct taxation. They "have made it plain that, while they are prepared to concede to the "Federal Government the same rights of indirect taxation in the "States as it will possess in British India, they are not prepared to "concede to it the right to impose taxes on income within their terri-"tories. This is an obvious anomaly. Its practical effect on Federal "finances is not, indeed, at the present moment very great. Indirect "taxation constitutes some four fifths of the Central revenues, and the "yield of an income tax imposed on the States would, in all probability, "be low. It does, however, create an obvious theoretical difficulty in "treating income tax imposed on British India alone as predominantly "a Federal tax While we are on this subject, however, it is only "right to recognise that, if the entry of the States creates one anomaly, "it removes another very serious one") is again considered.

The amendment, by leave of the Committee, is withdrawn.

It is moved by the Lord Eustace Percy Page 147, lines 27 to 39, leave out from ("disappears") in line 27 to the end of the paragraph.

The amendment, by leave of the Committee, is withdrawn.

Paragraph 245 is again read.

The further consideration of paragraph 245 is postponed.

Paragraph 246 is again read and postponed.

Paragraph 217 is again read.

It is moved by the Lord Eustace Percy. Page 148, lines 22 to 25, to leave out from ("alone:") in line 22 to the end of the sentence.

The amendment, by leave of the Committee, is withdrawn.

All amendments are to the Draft Report (*vide infra* paras. 1-42B, pp. 470—491; and *vide supra* paras. 43—453, pp. 64-253) and NOT to the Report as published (Vol. I, Part I)

A Key is attached (see pp. 521—544), showing on which pages of the Proceedings amendments to each paragraph can be found.

Paragraph 247 is again read.

The further consideration of paragraph 247 is postponed.

Paragraphs 248 and 249 are again read and postponed.

Paragraph 250 is again read.

It is moved by the Earl Peel. Page 149, line 41, to leave out ("even "as an ultimate objective".)

The same is agreed to.

It is moved by the Lord Eustace Percy. Page 150, line 6, at the end to insert: ("If a lower and an upper limit is to be fixed in the constitution for the proportion of income tax to be allocated to the Provinces, we suggest that the lower limit should be 50 per cent., including "the subsidies to the deficit Provinces, while the upper limit should be "50 per cent., excluding those subsidies")

The amendment, by leave of the Committee, is withdrawn.

Paragraph 250 is again read as amended.

The further consideration of paragraph 250 is postponed.

Paragraphs 251 and 252 are again read and postponed.

Paragraph 253 is again read

It is moved by the Lord Eustace Percy. Page 150, line 29, after ("complexity") to insert: ("and we do not think that it is part of "our duty to suggest a detailed scheme,").

The same is agreed to.

It is moved by Sir Samuel Hoare and Mr. Butler. After the said amendment to insert ("beyond commending for consideration the general "principle that the share of each Province should be determined primarily by the proportionate amount contributed by its taxpayers in "respect of income-tax.")

The amendment, by leave of the Committee, is withdrawn.

It is moved by the Lord Eustace Percy. Page 150, lines 30 and 31, to leave out from ("approach,") in line 30 to the end of the paragraph and to insert; ("on the assumption that an automatic basis of distribution can be fixed. The validity of this assumption will largely depend "upon the amount of income tax which can be allocated to the Provinces "at any given time")

The same is agreed to.

Paragraph 253 is again read as amended.

The further consideration of paragraph 253 is postponed.

Paragraph 254 is again read.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 150, lines 42 and 43, to leave out from ("contribution") in line 42 to the end of the paragraph and to insert ("We appreciate the desire of the States for "this measure of elasticity and feel bound to accept it, though we must "observe that the details of the arrangement with the States seem likely "to be complex and that the adoption of the alternative procedure is "economically undesirable.")

The same is agreed to.

It is moved by the Lord Eustace Percy. After the said amendment to insert: ("The question of the corporation tax is a difficult one, not "only because of the complexity of these arrangements with the States, "but also because commercial opinion, both Indian and English is, we "understand, strongly opposed to the tax in principle. We do not,

"however, feel that it is our duty to express an opinion on the taxation "policy of the Government of India. We, therefore, confine ourselves "to the remark that, if a tax of this kind is to be levied at all, it is "obviously most desirable that it should be levied generally on all "companies, both in British India and in the States.")

The amendment, by leave of the Committee is withdrawn.

Paragraph 254 is again read as amended

The further consideration of paragraph 254 is postponed.

Paragraph 255 is again read.

The Lord Eustace Percy Page 151, lines 16 to 18, to leave out from ("completed ") in line 16 to the end of the paragraph

The amendment, by leave of the Committee, is withdrawn.

Paragraph 255 is again read.

The further consideration of paragraph 255 is postponed.

It is moved by the Lord Eustace Percy Page 151, after paragraph 255 to insert the following new paragraph:

Taxes on agricultural incomes.

("255A The White Paper proposes that the Provinces should have exclusive power to impose taxes on agricultural incomes, which are not at present subject to income tax. We approve this proposal.")

The same is agreed to.

New Paragraph 255A is read.

The further consideration of paragraph 255A is postponed

Paragraph 256 is again read and postponed.

Paragraph 257 is again read

It is moved by the Lord Eustace Percy. Page 152, line 20, at the end to insert ("A claim has also been made by Assam to a share "in the proceeds of the excise duty on petroleum It is certain that "Assam urgently needs an assured increase in its revenue, but the "question in what form this need is to be met, whether by fixed sub- "vention or by assignment of revenues, is a matter of fiscal administra "tion on which we do not feel called upon to express an opinion ")

The same is agreed to

Paragraph 257 is again read as amended

The further consideration of paragraph 257 is postponed

Paragraph 258 is again read

It is moved by Sir Samuel Hoare and Mr Butler Page 152, lines 21 to 23, to leave out from ("taxes") in line 21 to ("in") in line 23 and to insert (" (of which Stamp Duties are the only ones at present imposed, "though there may be a limited scope in the near future for Railway "terminal taxes)").

The same is agreed to

Paragraph 258 is again read as amended

The further consideration of paragraph 258 is postponed

Paragraph 259 is again read.

It is moved by the Lord Eustace Percy. Page 153, lines 7 to 13, to leave out from ("governments,") in line 7 to the end of the paragraph, and to

insert ("We have already given our reasons for thinking that it is "undesirable to include in the Constitution Act statutory provisions in "regard to an inter-Provincial Council. Clearly, if it should prove "impossible, at any rate in the early years of the Federation, to devise "an automatic basis for the distribution of income tax to the Provinces, "some form of consultation between the Governor-General and the Pro- "vincial Governments as to the methods of distribution will have to be "devised; but in that event the point can, if necessary, be met by the "Order-in-Council procedure which we have already suggested.")

The same is agreed to.

Paragraph 259 is again read as amended.

The further consideration of paragraph 259 is postponed

Paragraph 260 is again read and postponed.

It is moved by Mr. Butler and Sir Samuel Hoare. After paragraph 260 to insert the following new paragraph:—

("260A. It will be convenient to refer here to the power which the States already possess to impose customs duties on their land frontiers. It is greatly to be desired that States adhering to the Federation like the Provinces, should accept the principle of internal freedom for trade in India and that the Federal Government alone should have the power to impose tariffs and other restrictions on trade. Many States, however, derive substantial revenues from customs duties levied at their frontiers on goods entering the State from other parts of India. These duties are usually referred to as internal customs duties, but in many of the smaller States are often more akin to octroi and terminal taxes than to customs. In some of the larger States the right to impose these duties is specifically limited by treaty. We recognise that it is impossible to deprive States of revenue upon which they depend for balancing their budgets and that they must be free to alter existing rates of duty to suit varying conditions But internal customs barriers are in principle inconsistent with the freedom of interchange of a fully developed federation and we are strongly of the opinion that every effort should be made to substitute other forms of taxation for these internal customs. The charge must, of course, be left to the discretion of the States concerned as alternative sources of revenue become available. We have no reason for thinking that the States contemplate any enlargement of the general scope of their "tariffs" and we do not believe that it would be in their interest to enlarge it. But in any case we consider that the accession of a State to the Federation should imply its acceptance of the principle that it will not set up a barrier to free interchange so formidable as to constitute a threat to the future of the Federation; and, if there should be any danger of this, we think that the powers entrusted to the Governor General in his discretion in Paragraph 129 of the White Paper would have to be brought to bear upon the States") Land customs duties imposed by Indian States.

The same is agreed to.

New Paragraph 260A is again read.

The further consideration of paragraph 260A is postponed.

Paragraphs 261 to 264 are again read and postponed.

Paragraph 265 is again read.

It is moved by the Lord Eustace Percy. Page 155, lines 14 to 20, to leave out from the beginning of line 14 to ("the") in line 20, and to insert ("Similar considerations arise in.")

The same is agreed to.

Paragraph 265 is again read, as amended

The further consideration of paragraph 265 is postponed.

It is moved by the Lord Eustace Percy Page 155, after paragraph 265, to insert the following new paragraph.—

Other deficit Provinces.

("265A The subventions to other deficit Provinces also react on federal finance, but these would have been necessary before long under the existing Constitution, since it is clearly impossible to allow the continued accumulation of deficits by a Province, if over a number of years it is beyond its power within the resources assigned to it to balance its expenditure and revenue The subvention to the North West Frontier Province has already been granted, and the claim of Assam to an increase in its revenues has for some time been recognised as one which the Central Government must meet in some form ")

The same is agreed to.

New Paragraph 265A is read

The further consideration of paragraph 265A is postponed

Paragraph 266 is again read and postponed

Paragraph 267 is again read

It is moved by Mr Morgan Jones Mr Attlee, and Mr Cocks Page 156, line 4, after ("Centre) to insert ("It is a vital necessity that the "strictest economy should be observed wherever it is possible, without "detracting from the nation building services We would suggest that "the most fruitful fields for the practice of this economy would be (a) "in the Army expenditure, (b) in the transfer at as early a date as "possible of the terms of future recruitment, pay, etc , of the services to "the Governments in India and (c) in having single Chamber Gov-"ernment, both for the Federation and the Provinces ")

Objected to

On Question —

Contents (3)	Not Contents (19)
Mr Attlee	Marquess of Salisbury
Mr Cocks	Marquess of Zetland
Mr Morgan Jones	Marquess of Linlithgow
	Marquess of Reading
	Earl of Lytton
	Earl Peel
	Viscount Halifax
	Lord Middleton
	Lord Kerr (M Lothian)
	Lord Rankeillour
	Mr Butler
	Major Cadogan
	Sir Austen Chamberlain
	Sir Reginald Craddock
	Mr Davidson
	Sir Samuel Hoare
	Sir Joseph Nall
	Lord Eustace Percy
	Sir John Wardlaw-Milne.

The said amendment is disagreed to

Paragraph 267 is again read.

The further consideration of paragraph 267 is postponed.

Paragraph 268 is again read and postponed.

Ordered, that the Committee be adjourned till to-morrow at half-past Two o'clock.

Die Mercurii 11° Julii 1934

Present.

MARQUESS OF SALISBURY.
MARQUESS OF LINLITHGOW.
MARQUESS OF READING.
EARL OF DERBY.
EARL OF LYTTON.
EARL PEEL.
VISCOUNT HALIFAX.
LORD MIDDLETON.
LORD KER (M. LOTHIAN).
LORD HARDINGE OF PENSHURST.
LORD SNELL.
LORD RANKEILLOUR.
LORD HUTCHISON OF MONTROSE
MR. ATTLEE.
MR. BUTLER.
MAJOR CADOGAN.
SIR AUSTEN CHAMBERLAIN
MR. COCKS.
SIR REGINALD CRADDOCK.
MR DAVIDSON.
MR. FOOT.
SIR SAMUEL HOARE.
MR. MORGAN JONES.
LORD EUSTACE PERCY
SIR JOHN WARDLAW MILNE.

THE MARQUESS OF LINLITHGOW in the Chair.

The Order of Adjournment is read.

The Proceedings of Yesterday are read.

Paragraph 269 is again read.

It is moved by the Lord Ker (M. Lothian). Page 157, line 4, after ("consideration) to insert ("The system of responsible government, to "be successful in practical working, requires the existence of a competent and independent Civil Service staffed by persons capable of "giving advice to successive ministries, based on long administrative "experience, secure in their positions during good behaviour, but "required to carry out the policy upon which the Government and the "legislatures eventually decide.")

The same is agreed to.

Paragraph 269 is again read as amended.

The further consideration of paragraph 269 is postponed.

Paragraph 270 is again read.

It is moved by the Lord Eustace Percy and Major Cadogan. Page 157, lines 30 to 32, to leave out from ("man") in line 30 to ("not") in line 32 and to insert ("whether British or Indian. Parliament may, "therefore, rightly require, in the interests of India as well as of this "country,")

The same is agreed to.

It is moved by the Lord Eustace Percy and Major Cadogan. Page 157, line 34, at the end to insert ("It is, indeed, the interests of India "that must be considered above all. The difficulties of the new Consti-"tution will be aggravated in every respect if the administrative "machinery is not thoroughly sound. One of the strongest supports of "the new Governments and their new Ministers that we can recom-"mend, and that the Constitution can provide for, will be impartial, "efficient and upright Services in every grade and department. It has "been impressed on us from various responsible sources, mainly Indian, "that the success of the transfer of local self-governing bodies to non-"official hands has been jeopardised by the lack of the strong and "adequate staff, both inspecting and administrative, required by the "new heads of such bodies, when they took over their duties from "experienced officials. Whether or not these criticisms are justified, "they indicate the obvious danger, in the larger sphere of provincial "government, which would follow from any deterioration in the "Services").

The same is agreed to.

All amendments are to the Draft Report (*vide infra* paras. 1—42B, pp. 470—491; and *vide supra* paras. 43—453, pp. 64—253) and NOT to the Report as published (Vol. I, Part I).

A Key is attached (see pp. 521—544), showing on which pages of the Proceedings amendments to each paragraph can be found.

Paragraph 270 is again read, as amended.

The further consideration of paragraph 270 is postponed.

Paragraphs 271 to 278 are again read and postponed.

Paragraph 279 is again read.

The following amendment is laid before the Committee.

Sir Samuel Hoare and Mr. Butler to move. Page 160, line 7, after ("the") to insert ("principal").

The consideration of the said amendment is postponed.

It is moved by the Lord Eustace Percy and Major Cadogan. Page 160, lines 1 8, to leave out from the beginning of the paragraph to ("are") in line 8 and to insert, ("In addition, the White Paper "proposes that there should be secured to every person in the Public "Services at the commencement of the Constitution Act all service "rights possessed by him at that date.[1] The principal existing service "rights of officers appointed by the Secretary of State and of persons "appointed by authority other than the Secretary of State are set out in "Parts 1 and 2 respectively of Appendix VII of the White Paper. "Officers appointed by the Secretary of State are also to have a special "right to such compensation for the loss of any existing right as the "Secretary of State may consider just and equitable. It may be "observed that some of the existing service rights of officers appointed "by the Secretary of State set out in Part 1 of Appendix VII").

The same is agreed to.

Paragraph 279 is again read, as amended.

The further consideration of paragraph 279 is postponed.

It is moved by the Lord Eustace Percy and Major Cadogan. Page 160, after paragraph 279 to insert the following new paragraph:—

"(279A. In addition to these rights and safeguards common to all members of the Public Services, it is proposed that, after the commencement of the Act, the Secretary of State, who will continue to make appointments to the Indian Civil Service, the Indian Police and the Ecclesiastical Department, shall regulate the conditions of service of all persons so appointed, and it is intended that the conditions of service thus laid down shall in substance be the same as at present. The power to regulate the conditions of service of officers not appointed by the Secretary of State, on the other hand, has, since 1926, been delegated to the Government of India in the case of the Central Services and to Provincial Governments in the case of Provincial Services, and the White Paper contains no provision as to the conditions of service to be applied to officers of these Services appointed after the commencement of the Constitution Act.")

The same is agreed to.

New Paragraph 279A is again read.

The further consideration of paragraph 279A is postponed.

Paragraph 280 is again read.

It is moved by the Lord Eustace Percy and Major Cadogan. Page 160, line 21, at the beginning of the paragraph to insert ("Further,").

The same is agreed to.

It is moved by the Lord Eustace Percy and Major Cadogan. Page 160, line 23, after ("compensation") to insert ("to any officer appointed by him").

The same is agreed to.

Paragraph 280 is again read, as amended.

The further consideration of paragraph 280 is postponed.

[1] **White Paper, Proposal 182.**

Paragraphs 281 and 282 are again read and postponed.

Paragraph 283 is again read.

It is moved by the Lord Eustace Percy and Major Cadogan. Page 161, to leave out paragraph 283 and to insert the following new paragraphs:—

("283. While we consider that the White Paper provides adequately for the special protection of members of the Secretary of State's Services, we are not fully satisfied that the status of other members of the Public Services, and of those Services as a whole, has been made sufficiently clear either in the White Paper or in any of the investigations and discussions which have led up to its preparation. We have already discussed in paragraph 89 the measures necessary to safeguard the *moral* and efficiency of the Police Service, including its subordinate ranks. In paragraphs 321—325 we shall make certain special proposals in regard to judicial appointments. In addition, however, to these special recommendations, we think it our duty to make certain general observations on the future of the Public Services as a whole.

"283A. It is natural that the process by which, during recent years, the power to appoint officers in the Provincial Transferred Services and to regulate their conditions of service has been transferred to the Provincial Governments, should have tended to create a false distinction between the status of the All-India Services and that of the Provincial Services. The tendency has almost inevitably been to regard the Provincial Services as having ceased to be Crown Services, and as having become Services of the Provincial Governments. This tendency has been emphasised by the argument, frequently advanced and accepted in the past both by Indians and Englishmen, that Provincial self-government necessarily entails control by the Provincial Government over the appointment of its servants. This argument has, no doubt, great logical force, but it runs the risk of distorting one of the accepted principles of the British Constitution, namely, that Civil Servants are the servants of the Crown, and that the Legislature should have no control over their appointment or promotion and only a very general control over their conditions of service. Indeed, even the British Cabinet has come to exercise only a very limited control over the Services, control being left very largely to the Prime Minister as, so to speak, the personal adviser of the Crown in regard to all service matters. The same principle applies, of course, equally to the Services recruited by the Secretary of State for India, though this fact has been sometimes obscured by inaccurate references to the control of Parliament over the All-India services. But whatever misunderstandings may have arisen in the past as to the real status of the Provincial services, there ought to be no doubt as to their status under the new Constitution. We have already pointed out that, under that Constitution, all the powers of the Provincial Governments, including the power to recruit public servants and to regulate their conditions of service, will be derived, no longer by devolution from the Government of India, but directly by delegation from the Crown, *i.e.*, directly from the same source as that from which the Secretary of State derives his powers of recruitment. The Provincial Services, no less than the Central Services and the Secretary of State's services, will, therefore, be essentially Crown Services, and the efficiency and *moral* of those services will largely depend in the future on the development in India of the same conventions as have grown up in England.

"283B. But, if such conventions are to develop in India as in England, they must develop from the same starting point—from a recognition that the Governor, as the personal representative of the Crown and the head of the executive government, has a special relation to all the Crown Services. He will, indeed, be generally bound to act in that relation on the advice of his Ministers, subject

to his special responsibility for the rights and legitimate interests of the Services, but his Ministers will be no less bound to remember that advice on matters affecting the organisation of the permanent executive services is a very different thing from advice on matters of legislative policy, and that the difference may well affect the circumstances and the form in which such advice is tendered. We think, therefore, that the Constitution should contain in its wording a definite recognition of the Governor-General and the Governors respectively as, under the Crown, the heads of the Central (as distinct from the All-India) and Provincial Services and as the appointing authorities for those services. It will follow (*see* paragraph 277 above) that no public servant will be subject to dismissal, save by order of the Governor-General or Governor.

"283C. But, further than this, it will, in our view, be essential that the Central and Provincial Legislatures respectively should give general legal sanction to the status and rights of the Central and Provincial Services. Their status and rights should not be in substance, inferior to those set out in List 1 of Appendix VII of the White Paper. The rights of persons appointed by the Secretary of State, enumerated in that List, are not peculiar or exceptional; they are simply the rights generally recognised to be essential to the *moral* of any administrative service. They are rights, in the first place, to protection against individual injury amounting to breach of contract and against individual unfair treatment through disciplinary action or refusal of promotion; and, in the second place, to protection against such alterations in the organisation of the services themselves as might damage the professional prospects of their members generally. The special responsibility of the Governor-General and Governors would, in any case, in our judgment, extend to all these points; but it is on all grounds desirable that the Executive Government as a whole should be authorised and required by law to give the Services the necessary security. Provincial Civil Service Acts, passed for this purpose, could not, indeed, determine in detail the rates of pay, allowances and pensions and the conditions of retirement of all Civil Servants, nor the procedure to be followed in considering their promotion on the one hand, or, on the other, their dismissal, removal, reduction or formal censure. Such Acts could, however, confer general powers and duties for these purposes on the Government, and in regard to promotions, they could provide definitely that "canvassing" for promotion or appointments shall disqualify the candidate, and that orders of posting or promotion in the higher grades shall require the personal concurrence of the Governor. It is admittedly more difficult to give security to the Services as a whole in respect of their general organisation; yet the *moral* of any service must largely depend upon reasonable prospects of promotion, and this must mean that there is a recognised cadre of higher-paid posts which while naturally subject to modification in changing circumstances, will not be subject to violent and arbitrary disturbance. A Legislature does nothing derogatory to its own rights and powers if it confers upon the Executive by law the duty of fixing such cadres and of reporting to the Legislature if any post in these cadres is at any time held in abeyance.

"283D. There is, however, one existing right of officers appointed by the Secretary of State, the application of which, as it stands, to civil servants in general would be impossible, namely, the right to non-votability of salaries and pensions. There is, indeed, nothing derogatory, again, to the rights and powers of a Legislature in the adoption of a special procedure, similar to the Consolidated Fund procedure of the British Parliament, under which certain expenditures of the Government are authorised *en bloc* by bill instead of being voted in detail on estimates of supply, and this is, in fact,

generally recognised to be a desirable procedure in certain circumstances. But, as we point out below in paragraph 304, in a slightly different connection, this procedure could not, in practice, be applied to the salaries of all public servants. We think, however, that it might well be applied by the Provincial Legislatures to certain classes of officers, including officers exercising judicial functions and the higher grades of all the services. We make this proposal without prejudice to the proposals in the White Paper which provide that certain heads of expenditure shall not be submitted to the vote of the Provincial Legislatures at all.")

The amendment, by leave of the Committee, is withdrawn.

Paragraph 283 is again read.

The further consideration of paragraph 283 is postponed.

Paragraph 284 is again read and postponed.

Paragraph 285 is again read.

It is moved by Lord Eustace Percy and Major Cadogan. Page 162, line 23, after ("powers") to insert ("over the officers who are working "under it").

The same is agreed to.

It is moved by the Lord Eustace Percy and Major Cadogan. Page 162, lines 23 and 24, to leave out from ("autonomous") in line 23 to the end of the sentence and to insert ("Provincial Government might "expect that the Crown should delegate to it.")

The same is agreed to.

Paragraph 285 is again read, as amended.

The further consideration of paragraph 285 is postponed.

Paragraph 286 is again read.

It is moved by Sir Reginald Craddock. Page 162, lines 34 to 38, to leave out from the beginning of line 34 to ("are") in line 38 and to insert ("We appreciate the force of this line of argument, though we "have already pointed out the dangerous conclusions which might be "drawn from it. But the loyalty with which officers of the All-India "Services have served the Local Governments under whom they work, "notwithstanding that these Services are under the control of the "Government of India and the Secretary of State, has a long tradition "behind it: nor has any Local Government felt difficulty in regard "to maintaining discipline and securing full obedience of the Services "on account of that control. Moreover, the evidence given before us "confirmed the earlier conclusions of the Lee Commission and of the "Statutory Commission that, with negligible exceptions, the officers of "these Services have maintained excellent relations with the Indian "Ministers under whom they have been working. Subject to certain "qualifications to which we refer hereafter, we are of opinion that "recruitment by the Secretary of State, for the All-India Services, where "it still continues, should come to an end except in the case of the "Indian Civil Service and the Indian Police; the functions performed "by membefs of these two services")

The same is agreed to.

It is moved by Mr. Morgan Jones, Mr. Cocks, and the Lord Snell. Page 162, line 36, to page 163, line 15, to leave out from ("hereafter.") in line 36, page 162, to the end of the paragraph, and to insert ("We "fully recognise the fact that the functions performed by members of "the Indian Civil Service and the Indian Police are essential to the "general administration of the country and the vital need of maintain-"ing a supply of recruits of the highest quality. But we feel that "Indianisation of these services should proceed at a more rapid pace. "Meanwhile recruitment to these services should be by the Governor-"General in his discretion, and the control of conditions of service "should be in his hands. We are aware that this modification of the "present practice will be one of form rather than of substance, since "the Governor-General will be acting under the direction of the Secre-"tary of State, but Indian public opinion attaches considerable

"importance to this formal change, and we are satisfied that the "psychological effect at this juncture upon the Indian people will be "of great value.")

Objected to.

On Question:—

Contents (3)	Not Contents (18)
Lord Snell.	Marquess of Salisbury.
Mr. Cocks.	Marquess of Linlithgow.
Mr. Morgan Jones.	Marquess of Reading.
	Earl of Derby.
	Earl of Lytton.
	Earl Peel.
	Viscount Halifax.
	Lord Middleton.
	Lord Hardinge of Penshurst.
	Lord Rankeillour.
	Lord Hutchison of Montrose
	Major Cadogan.
	Sir Austen Chamberlain.
	Sir Reginald Craddock.
	Mr. Davidson.
	Sir Samuel Hoare.
	Lord Eustace Percy.
	Sir John Wardlaw Milne.

The said amendment is disagreed to.

It is moved by Sir Reginald Craddock. Page 162, line 40, after ("vital") to insert ("to the stability of the new Constitution itself.")

The same is agreed to.

It is moved by the Marquess of Linlithgow. Page 162, line 42, after ("recruitment") to insert ("for these two Services").

The same is agreed to.

It is moved by the Lord Eustace Percy and Major Cadogan. Page 163, lines 12 to 15, to leave out from ("but") to the end of the paragraph and to insert ("for that very reason we are reluctant to make "a merely formal change which might at this juncture have an unfor- "tunate effect upon potential recruits.")

The same is agreed to.

It is moved by the Lord Eustace Percy and Major Cadogan. Page 163, line 15, at the end to insert ("We believe, however, that there is "much to be said for the recruitment in India of the prescribed pro- "portion of Indians for the Indian Civil Service as well as for the "Indian Police[1] and recommend this as a subject for consideration by "His Majesty's Government ")

The same is agreed to.

Paragraph 286 is again read, as amended.

The further consideration of paragraph 286 is postponed.

Paragraph 287 is again read.

It is moved by the Lord Eustace Percy and Major Cadogan. Page 163, to leave out paragraph 287 and to insert the following new paragraph:—

("287. The White Paper makes it clear that these proposals are not intended to be a permanent and final solution of this difficult question. It proposes, indeed, that, at the expiration of five years from the commencement of the Constitution Act, an enquiry should be held into the question of future recruitment for these two

[1] Officers required for the Indian Medical Service (Civil) will continue to be obtained from the Indian Medical Service, which will still be recruited under military regulations by the Secretary of State.

services, the decision on the results of the enquiry (with which it is intended that the Governments in India shall be associated) resting with His Majesty's Government subject to the approval of both Houses of Parliament We agree with the principle of this proposal. Our aim, as we have already said, is to ensure that the new constitutional machinery shall not be exposed during a critical period to the risks implicit in a change of system: we recognise that the whole matter must be made the subject of a further enquiry in due time. We cannot, however, endorse the proposal to fix a definite date for such an enquiry, or even a date after which the desirability of holding such an enquiry shall be considered. Past experience shows the doubtful wisdom of such a fixing of dates, and we think that no provision of this kind should be inserted in the Constitution In our view, a change in the method of recruitment of the All India services will depend less upon the lapse of any given period of time than upon the extent to which the Provincial Governments find it possible to organise and regulate the Public Services under their control on the lines which we have ventured to suggest above")

The amendment, by leave of the Committee is withdrawn.

It is moved by Sir Reginald Craddock. Page 163, line 17, to leave out the second ("to") and to insert ("in some circles of").

The same is agreed to.

It is moved by Mr. Cocks, Mr Attlee, and Mr Morgan Jones. Page 163, line 29, to page 164, line 1, to leave out from the beginning of line 29, page 163, to ("It") in line 1, page 164.

Objected to.

On Question.—

Contents (3)	Not Contents (16)
Mr. Attlee.	Marquess of Linlithgow.
Mr. Cocks.	Marquess of Reading.
Mr. Morgan Jones.	Earl of Derby.
	Earl Peel.
	Lord Middleton
	Lord Hardinge of Penshurst.
	Lord Rankeillour.
	Lord Hutchison of Montrose
	Mr. Butler.
	Major Cadogan
	Sir Reginald Craddock
	Mr Davidson
	Mr Foot
	Sir Samuel Hoare
	Lord Eustace Percy.
	Sir John Wardlaw Milne

The said amendment is disagreed to.

It is moved by Sir Austen Chamberlain. Page 163, line 39, to leave out ("within") and to insert ("in", and after ("years") to insert ("time").

The same is agreed to

It is moved by Sir Austen Chamberlain. Page 164, to leave out lines 3 to 10 inclusive

The same is agreed to.

Paragraph 287 is again read, as amended.

The further consideration of paragraph 287 is postponed.

Paragraphs 288 to 294 are again read and postponed.

Paragraph 295 is again read.

It is moved by the Lord Eustace Percy and Major Cadogan Page 166, line 42, after ("Provinces") to insert ("should lay down jointly the "conditions of service of Forest officers")

The same is agreed to

It is moved by the Lord Eustace Percy and Major Cadogan Page 166 line 45, to leave out ("and entrust") and to insert ("entrusting").

The same is agreed to

It is moved by the Lord Eustace Percy and Major Cadogan Page 166, line 48, to page 167, line 1, to leave out from ("service") in line 48, page 166, to ("service") in line 1, page 167

The same is agreed to

Paragraph 295 is again read as amended

The further consideration of paragraph 295 is postponed

Paragraphs 296 and 297 are again read and postponed

Paragraph 298 is again read

It is moved by Sir Samuel Hoare and Mr Butler Page 168, line 11, after ("officers") to insert ("both European and Indian")

The same is agreed to

Paragraph 298 is again read as amended

The further consideration of paragraph 298 is postponed

Paragraph 299 is again read and postponed

It is moved by the Lord Eustace Percy and Major Cadogan Page 168, after paragraph 299 to insert the following new paragraph:—

("299A Our recommendation that the Forest and Irrigation Services should in future be recruited in India does not, of course, imply that the Federal Public Service Commission, in the case of Forests and the Provincial Commissions, in the case of Irrigation, should abandon the recruitment of necessary personnel from England The High Commissioner for India in London already recruits specialist and expert officers of various kinds in England, as the agent of the competent authorities in India, and the Public Services Commissions in India will doubtless continue this practice, or may for certain purposes, make use of the Civil Service Commission")

The amendment, by leave of the Committee, is withdrawn

Paragraphs 300 to 304 are read and postponed

Paragraph 305 is again read

It is moved by the Lord Rankeillour Page 170, line 14, at the end to insert ("He should, however, have a reserve power of borrowing at "his discretion for the purpose of the punctual discharge of statutory "obligations")

The amendment, by leave of the Committee, is withdrawn

The further consideration of paragraph 305 is postponed to Friday next

Ordered, that the Committee be adjourned to Friday next at half-past Ten o'clock

Die Veneris 13° Julii 1934

Present:

LORD ARCHBISHOP OF CANTERBURY.
MARQUESS OF SALISBURY.
MARQUESS OF ZETLAND.
MARQUESS OF LINLITHGOW.
MARQUESS OF READING.
EARL OF DERBY.
EARL PEEL.
VISCOUNT HALIFAX.
LORD MIDDLETON.
LORD KERR (M. LOTHIAN).
LORD SNELL.
LORD RANKEILLOUR.
LORD HUTCHISON OF MONTROSE.
MR. BUTLER.
MAJOR CADOGAN.
SIR AUSTEN CHAMBERLAIN.
MR. COCKS.
SIR REGINALD CRADDOCK.
MR. DAVIDSON.
MR. FOOT.
SIR SAMUEL HOARE.
MR. MORGAN JONES.
SIR JOSEPH NALL.
LORD EUSTACE PERCY.
SIR JOHN WARDLAW-MILNE.
EARL WINTERTON.

THE MARQUESS OF LINLITHGOW in the Chair.

The Order of Adjournment is read.

The Proceedings of Wednesday last are read.

Paragraph 305 is again considered.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 170, line 14, at the end to insert ("If need arose for the Governor to take special "steps for the purpose, in virtue of his special responsibilities, it "would, of course, be open to him to adopt whatever means were most "appropriate in the circumstances, and, if necessary to meet the situa-"tion by borrowing, the powers available to him personally in this "respect would be identical with those available to the provincial "Government. If he should seek assistance from the Federal Govern-"ment in the form of a loan, his application would be governed by "the provision relating to provincial borrowing which we have already "advocated.")[1]

The same is agreed to.

Paragraph 305 is again read as amended.

The further consideration of paragraph 305 is postponed.

Paragraph 306 is again read.

It is moved by Sir Reginald Craddock. Page 170, to leave out paragraph 306 and to insert the following new paragraph:—

("306. Although as we have said a Governor is equally interested that all classes of officers should receive the emoluments and pensions to which they are entitled, yet his 'special responsibility' is limited to the emoluments and pensions of officers appointed by the Secretary of State. We approve the proposal in the White Paper that these pensions should be a charge against the Federal Government direct, the necessary adjustments being subsequently made between the Federal Government and Province or Provinces concerned, but the pensioner's method of redress would be by suit against the Secretary of State in London and not against the Federal Government. There is, however, one particular feature about the pensions of the Indian Civil Service which it seems right to mention. While in other All-India Services and in the Indian Army pensions are non-contributory, this was not the case in the Indian Civil Service up to April, 1919. Until that date every member of that Service

[1] *Supra*, para. 262.

All amendments are to the Draft Report (*vide infra*, paras. 1-42B, pp. 470-491; and *vide supra*, paras. 43-453, pp. 64-253) and NOT to the Report as published (Vol. I, Part I).

A Key is attached (see pp. 521-544), showing on which pages of the Proceedings amendments to each paragraph can be found.

had to make a compulsory contribution of 4 per cent. of his pay towards the cost of his pension of £1,000 sterling per annum. No separate account of these contributions was ever kept, and they merged in the general revenues of India. The change was made in April, 1919, upon the recommendation of the Islington Commission, and from that time the deduction of 4 per cent. in the case of every officer is credited to his account in a Provident Fund, and the amount standing to his credit is paid to him on the date of his retirement, in rupees, so that officers who entered the Service in or after April, 1919, have not contributed towards their pensions, but the oldest pensioners who retired at or before that time contributed during the whole of their service, while even among officers now serving, those of over 15 years' service were on the contributory system for service prior to 1919. In the absence of any accounts it is impossible to estimate what proportion of an officer's pension was contributed either by himself or by the Service at large. It is also proper to mention that the pensions paid to officers of all the Services, unless they continue an Indian domicile, are not subject to any deduction on account of Indian Income Tax. We think it right that these facts should be mentioned as a reassurance to pensioners.")

The amendment by leave of the Committee is withdrawn.

Paragraph 306 is again read.

The further consideration of paragraph 306 is postponed.

Paragraph 307 is again read.

It is moved by Sir Reginald Craddock. Page 170, to leave out paragraph 307 and to insert the following new paragraph:—

("307. The various Family Pension Funds stand on a different footing from other pensionary obligations of the Government of India. The funds of the Indian Civil Service and the Indian Army have a long history behind them. The Family Pension Funds of the other Services are of recent institution, but all are alike in their nature, viz., that they consist entirely of contributions of the Services to cover provisions for their widows, minor sons and unmarried daughters. The Civil funds were started in the days of the East India Company and were three in number, Madras, Bombay and Bengal. They were managed by special Committees of the Services and invested by them in various Government of India Securities, some of which in those days used to pay as much as 8 per cent. Between the years 1874 and 1882, as a result of long negotiations between the Secretary of State and the Committees administering the funds, the whole of the accumulated funds were handed over to the Secretary of State, the transaction receiving effect by Acts of Parliament. The Secretary of State under these Acts undertook the obligation of paying pensions to widows and orphans at fixed rates which varied according to the amount of the funds accumulated by the three Presidencies in question. The subscribers to those Funds continued to pay the appointed contributions for the remainder of their services, indeed, for a long time contributions were contributed by officers even after their retirement. With effect from 1882, all officers who joined the Service became compulsory contributors to a new I.C.S. Family Pension Fund which took the place of the three Funds which the Secretary of State had taken over. At the time that all these contracts were made and legalised by Acts of Parliament the guarantees were ample for there was then no question of any relaxation by the Secretary of State over the finances of India. Since the Montagu Announcement there has arisen alarm and anxiety regarding the security of these pensions, for the recipients may still be dependent upon them for a period which in some cases may extend to the end of this century.

"We understand that as regards the old Madras, Bombay and Bengal funds, not even *pro forma* accounts have been kept. The obligations of the Government of India and of the Secretary of State being absolute, since the accumulations of those funds were made over to the Government of India on the condition that the Government and the Secretary of State would pay pensions at the agreed rates up to the last survivor.

"In the case of the I.C.S. Family Pension Fund created in 1882, *pro forma* accounts have been kept up, and the position of these funds is periodically reviewed by an Actuary appointed by the Secretary of State, and with reference to the assets available, pensions to widows and orphans have been raised permanently to some extent and with temporary additions which are conditional on the assets available being sufficient. These pensioners now desire that the assets of the I.C.S. Family Pension Fund should be remitted to this country and invested in sterling securities. The Secretary of State has, we understand, addressed all those interested either as contributors to the Funds or as recipients of pension from it, asking their approval for a scheme under which the remittance to this country of these funds would be effected over a period of 15 years. The Secretary of State has informed us that His Majesty's Government will undertake no guarantee in the matter on the ground that under the new Constitution payment of these obligations by the Government of India will be secured by the Secretary of State and that therefore there is no case for a guarantee by His Majesty's Government. We cannot overloook, however the fact that the whole of these contributions have been absorbed in the Indian Revenue, and that the interest on these contributions has never been included in the interest charges of the financial statements of the Indian Government. It is not known now exactly what form the new Constitution will take, much less can the future developments be foretold. The anxiety felt by the beneficiaries is very genuine, and we suggest that His Majesty's Government might at least guarantee the payment each year of the pensions due pending their collection by the Secretary of State from the Indian Revenues. This guarantee would naturally cease to have effect as soon as the assets of the Fund have been remitted to this country and invested in sterling securities. If His Majesty's Government and the Secretary of State are correct in their view that the control retained by the Secretary of State over Indian finances will suffice to secure this money, then the contingent liability incurred by His Majesty's Government will be comparatively small and merely temporary.")

The following amendment is laid before the Committee.

The Lord Hutchison of Montrose on behalf of the Lord Hardinge of Penshurst to move as an amendment to the above amendment, to leave out the last sentence of the amendment and to insert ("We "are strongly of opinion that in any case the period of 15 years "proposed by the Secretary of State for the remittance to this "country of the Family Pension Funds should be reduced to a term "of 10 years.")

The consideration of the said amendment is postponed.

The original amendment, by leave of the Committee, is withdrawn.

It is moved by the Lord Hutchison of Montrose on behalf of the Lord Hardinge of Penshurst. Page 170, line 39, after ("made") to insert ("and that steps should be taken to meet their views and to "complete the transfer of the funds from India within a period of "twelve years from the passage of the Constitution into law.")

The same is agreed to.

Paragraph 307 is again read as amended.

The further consideration of paragraph 307 is postponed.

Paragraph 308 is again read.

It is moved by the Lord Hutchison of Montrose. Page 171, lines 8 to 23, to leave out from ("Services;") in line 8 to the end of the paragraph, and to insert ("and we have noted with satisfaction the resolution of the Home Department of the Government of India, dated July "4, announcing new rules for the determination and improvement of "the representation of minorities in the Public Services. In accordance "with this resolution the claims of Anglo-Indians and domiciled Europeans who at present obtain rather more than 9 per cent. of the "Indian vacancies in the gazetted railway posts, for which recruitment "is made on an all-India basis, will be considered when and if their "share falls below 9 per cent., while 8 per cent. of the railway subordinate posts filled by direct recruitment will be reserved for Anglo-"Indians and domiciled Europeans. We are of opinion that a reference "should be included in the Instruments of Instructions of the Governor-"General and Governors to the fact that the legitimate interests of "minorities include their due representation in the Public Services, "and that no change should be made in the percentages prescribed in "the above mentioned resolution without the previous sanction of the "Governor-General and the Secretary of State.")

The amendment, by leave of the Committee, is withdrawn.

Paragraph 308 is again read.

Further consideration of paragraph 308 is postponed.

Paragraph 309 is again read and postponed.

Paragraph 310 is again read.

The following amendment is laid before the Committee.

Sir John Wardlaw Milne to move, page 172, lines 34 to 37, to leave out from ("another,") in line 34 to the end of the paragraph. The consideration of the said amendment is postponed.

It is moved by the Marquess of Reading, the Lord Ker (M. Lothian) and Mr. Foot. Page 172, lines 31 to 37, to leave out from ("State.") in line 31 to the end of the paragraph.

The same is agreed to.

Paragraph 310 is again read as amended.

The further consideration of paragraph 310 is postponed.

Paragraphs 311 to 315 are again read and postponed.

Paragraph 316 is again read.

It is moved by the Marquess of Reading, the Lord Ker (M. Lothian) and Mr. Foot. Page 175, line 38, after ("would") to insert ("have power to").

The same is disagreed to.

It is moved by the Marquess of Reading, the Lord Ker (M. Lothian) and Mr. Foot. Page 175, lines 43 and 44, to leave out from ("provide") in line 43 to the end of the paragraph.

Objected to.

On Question —

Contents (8)	Not Contents (13)
Marquess of Salisbury	Lord Archbishop of Canterbury
Marquess of Reading	Marquess of Zetland
Earl of Derby	Marquess of Linlithgow
Lord Middleton	Earl Peel
Lord Ker (M Lothian)	Viscount Halifax
Lord Rankeillour	Lord Hutchison of Montrose
Sir Reginald Craddock	Mr Butler
Sir Joseph Nall	Major Cadogan
	Mr Davidson
	Sir Samuel Hoare
	Lord Eustace Percy
	Sir John Wardlaw Milne
	Earl Winterton

Mr Cocks did not vote

The said amendment is disagreed to

Paragraph 316 is again read

The further consideration of paragraph 316 is postponed

Paragraph 317 is again read and postponed

Paragraph 318 is again read

It is moved by the Lord Rankeillour Page 176 line 22, at the beginning of the paragraph to insert ("The constitution of")

The same is agreed to

It is moved by the Lord Rankeillour Page 176, line 23 to leave out ("are scarcely") and to insert ("is hardly directly")

The same is agreed to

It is moved by the Lord Hutchison of Montrose Page 176, lines 38 and 39, to leave out from ("Judges,") in line 38 to ("we") in line 39, and to insert ("but we urge the desirability, in the interests of the "maintenance of British legal traditions, of continuing for some time "the recruitment of a certain number of High Court Judges from the "United Kingdom") and line 40, after the first ("are") to insert ("also")

The amendments by leave of the Committee are withdrawn

Paragraph 318 is again read as amended

The further consideration of paragraph 318 is postponed

Paragraph 319 is again read

It is moved by the Lord Rankeillour Page 177, to leave out Paragraph 319 and to insert the following new paragraph —

("319 We are at one with the Statutory Commission in thinking that the administrative control of the High Courts should be placed in the hands of the Central Government and that the expenditure required from them, and the receipts from Court fees, should be included in the Central Government's Budget The expenditure should be certified by the Governor General after consultation with his Ministers and should not be submitted to the vote of the Legislature We also think that the Governor General should be directed in his Instrument of Instruction to reserve any Bill which in his opinion would unduly derogate from the powers of the High Court")

Objected to

On question:—

Contents (4).	Not Contents (15).
Marquess of Salisbury.	Lord Archbishop of Canterbury.
Lord Rankeillour.	Marquess of Zetland.
Sir Joseph Nall.	Marquess of Linlithgow.
Lord Eustace Percy.	Marquess of Reading.
	Earl of Derby.
	Earl Peel.
	Viscount Halifax
	Lord Ker (M. Lothian).
	Lord Hutchison of Montrose.
	Mr. Butler.
	Major Cadogan
	Mr. Cocks.
	Mr. Davidson.
	Sir Samuel Hoare.
	Sir John Wardlaw-Milne.

Sir Reginald Craddock did not vote.

The said amendment is disagreed to.

It is moved by the Lord Eustace Percy Page 177, line 15, after ("Courts") to insert ("It is largely for this reason that strong repre-"sentations have been made to us to the effect that control over the "High Courts should be vested in the Federal Government After "careful consideration, we are unable to accept this view, since we "think it might tend to prejudice the close relations between the High "Courts and the Provincial Governments which, as will appear from "the recommendations we are about to make, it is of the utmost "importance to maintain.")

The amendment, by leave of the Committee, is withdrawn.

It is moved by the Lord Eustace Percy. Page 177, line 15, after ("proposes") to insert ("however").

The amendment, by leave of the Committee, is withdrawn.

Paragraph 319 is again read.

The further consideration of paragraph 319 is postponed.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 177, after paragraph 319 to insert the following new paragraph —

Administrative control of High Courts should remain with provincial Government.

("319A. It follows from this recommendation that we are not at one with the Statutory Commission in thinking[1] that the administrative control of the High Courts should be placed in the hands of the Central Government and that the expenditure required for them, and the receipts from court fees, should be included in the Central Government's budget We agree entirely with the Commission that the arrangement whereby in consequence of the historical connexion for certain purposes between the Calcutta High Court and the Government of India, decisions as to the strength of that Court and its establishment and as to its financial requirements for buildings or other purposes rest with the Central Government, though the extra expenditure involved by such decisions falls upon the Bengal Government, is an anomaly which ought to be terminated; but, in our view, it should be terminated not by placing financial responsibility for the Calcutta High Court (and incidentally for all other High Courts) upon the shoulders of the Federal Government, but by bringing the Calcutta Court into the same relationship with the Bengal Government as that obtaining between all other High Courts and their respective Provincial Governments. We agree, moreover, most fully with the Commission's view as to the importance of securing for the High Courts a position of independence and the largest possible measure of freedom from pressure exerted for political ends. This object should, we think, be fully

[1] Report, Vol. II, paragraphs 341—349.

secured by the recommendation which we made in the last paragraph But, subject to the fulfilment of this requirement, the High Court is, in our view, essentially a provincial institution. indeed, as subsequent paragraphs show, we seek to secure for each High Court an administrative connexion with the Subordinate Judiciary of the Province which we regard as of the highest importance, and which we think could not be maintained--or only in an atmosphere of mistrust and suspicion which would gravely detract from its advantages—if the Court were an outside body, regarded (as it would probably be) as an appanage of the Federal Government Apart from these reasons, which we regard as conclusive, in favour of maintaining the present relationship between the High Courts and the Provincial Governments (subject only to the modification required to bring the Calcutta High Court into the same position as that of the others) we are satisfied that the financial adjustments which would be involved in any attempt to centralise the administration and financing of the High Courts would be of a far more complicated nature than the Commission appear to have supposed')

The same is agreed to

New Paragraph 319A is again read

The further consideration of new paragraph 319A is postponed

Paragraph 320 is again read

It is moved by the Lord Rankeillour Page 177, lines 35 to 44, to leave out from the beginning of line 35 to ("in") in line 44 and to insert ("and")

The amendment by leave of the Committee, is withdrawn

It is moved by the Lord Rankeillour Page 177, line 45, to leave out from ("safeguarded") to ("the)

The amendment by leave of the Committee is withdrawn

It is moved by the Lord Rankeillour Page 177, line 46, to leave out ("not ')

The amendment, by leave of the Committee is withdrawn

It is moved by the Lord Rankeillour Page 177, line 50, at the end to insert (We think that it is also of great importance that the "powers of the High Courts referred to in Record III of our proceed "ings (Paragraphs 12 and 13) should be defined and confirmed by the "Constitution Act even where at present they rest on the authority "of the Provincial Government)

The same is agreed to

Paragraph 320 is again read, as amended

The further consideration of paragraph 320 is postponed

It is moved by Sir Samuel Hoare and Mr Butler Page 177, after paragraph 320 to insert the following new paragraph —

Future constitutional position of High Courts

("320A We think it desirable to explain the general effect of our recommendations upon the provincial High Courts Their constitution will, as at present, be laid down in the Constitution Act and the appointments to them will remain with the Crown· the Constitution Act will moreover, itself regulate more precisely than at present the nature and extent of the superintendence to be exercised by a High Court over the Subordinate Courts of the Province —the nature and extent, in fact, of what may be described as their administrative jurisdiction No change will be made in their relations with the Provinces in regard to the administrative questions affecting their establishment and buildings, except that the Calcutta High Court will henceforth have relations in these respects with the Bengal Government direct, and not, as at present, with the Central Government (which, even as matters stand, naturally consults the Bengal Government upon any proposals

made before it by the Court): but the supply required by the High Court will be determined by the Governor after consultation with his Ministers, and will not be subject to the vote of the provincial Legislature. As regards the juridical jurisdiction of the High Courts, insofar as this depends - as it mainly does depend—upon provisions of Indian enactments it will henceforth be determined by enactments of that Legislature which is competent to regulate the subject in respect of which questions of the High Court's jurisdiction arise: that is to say, it will be for the Federal Legislature alone to determine the jurisdiction of the High Court in respect of any matter upon which that Legislature has exclusive power to legislate, for the provincial Legislature to determine the jurisdiction of its High Court in respect of any exclusively Provincial Subject, and for both to determine (subject to the principles governing legislation in the concurrent field) in respect of any matter on which both Legislatures are competent to legislate. It will thus be seen that the High Courts, under our proposals, will be institutions which will not accurately be describable as either federalised or provincialised. They will form an integral part of the constitutional machinery and the various aspects of their activities as such will be regulated by the authority appropriate for the purpose.")

The same is agreed to

New paragraph 320A is again read

The further consideration of paragraph 320A is postponed.

Paragraphs 321 and 322 are again read and postponed.

Paragraph 323 is again read

It is moved by the Lord Rankeillour. Page 179, lines 2 to 4. Leave out from ("Court") in line 2 to the end of the sentence.

The same is disagreed to

Paragraph 323 is again read.

The further consideration of paragraph 323 is postponed

Ordered, That the Committee be adjourned to Monday next at half-past Four o'clock.

Die Lunae 16° Julii 1934

Present:

Lord Archbishop of Canterbury.
Marquess of Salisbury.
Marquess of Zetland.
Marquess of Linlithgow.
Marquess of Reading.
Earl of Derby.
Earl Peel.
Viscount Halifax.
Lord Middleton.
Lord Kerr (M. Lothian).
Lord Snell.
Lord Rankeillour.
Lord Hutchison of Montrose.
Mr. Attlee.
Mr. Butler
Major Cadogan.
Sir Austen Chamberlain.
Mr Cocks.
Sir Reginald Craddock.
Mr. Davidson.
Mr. Foot.
Sir Samuel Hoare.
Mr. Morgan Jones.
Sir Joseph Nall.
Lord Eustace Percy.
Sir John Wardlaw-Milne.
Earl Winterton.

The Marquess of Linlithgow in the Chair.

The Order of Adjournment is read.

The Proceedings of Friday last are read.

Paragraphs 324 to 453 are again postponed.

Paragraphs 1 to 86 are again postponed.

Paragraph 87 is again read as amended.

It is moved by the Marquess of Linlithgow Paragraph 87, page 41, line 20, to leave out from ("Minister.") in line 20 to the end of the paragraph (i.e., to leave out amendment inserted on the 25th June) and to insert ("If, therefore, the transfer is to be made as we think it should, it "is essential that the Force should be protected so far as possible against "these risks, and in the following paragraphs we make recommendations "designed to secure this protection.")

The same is agreed to.

Paragraph 87 is again read as amended.

The further consideration of paragraph 87 is postponed.

Paragraphs 88 to 92 are again considered

The motion of the Marquess of Zetland, the Earl of Derby, the Lord Hardinge of Penshurst, the Lord Hutchison of Montrose, Major Cadogan, Sir Austen Chamberlain, and the Lord Eustace Percy. Paragraph 90, page 43, line 11, after ("reconstitute.") to insert ("The "problem is a difficult one and, though, at the moment, it is perhaps "only of immediate importance in the Province of Bengal and to a "lesser extent in the provinces which border on Bengal, terrorism "and revolutionary conspiracy have not been confined to those "territories, nor consequently is the necessity for efficient counter-"revolutionary measures limited to them. Bengal, however, as has "been proved to us by the evidence we have received, has a parti-"cularly long and disquieting record of murder and outrage, of which "Indians and Europeans have equally been the victims. It has also "shown in a marked degree a rise or fall in such terrorist crime "according as the hands of the authorities have been weakened or "strengthened, and as precautionary and special measures have been "relaxed or enforced") is again considered.

The further consideration of the said amendment is postponed.

All amendments are to the Draft Report (*vide infra*, paras. 1—42B, pp. 470—491; and *vide supra*, paras. 43—453, pp. 64—253) and NOT to the Report as published (Vol. I, Part I).

A Key is attached (see pp. 521—544), showing on which pages of the Proceedings amendments to each paragraph can be found.

The following amendments to paragraphs 90 to 92 are again laid before the Committee:—

The Marquess of Zetland, the Earl of Derby, the Lord Hardinge of Penshurst, the Lord Hutchison of Montrose, Major Cadogan, Sir Austen Chamberlain, and the Lord Eustace Percy to move. Paragraph 91, page 43, lines 12 and 13, to leave out lines 12 and 13 inclusive.

The Lord Hutchison of Montrose and Sir Austen Chamberlain to move. Paragraph 91, page 43, lines 28 and 29, to leave out from ("that") in line 28 to ("and") in line 29 and to insert ("the practice "is that in a secret service case the names of agents are not disclosed "to Ministers").

Sir John Wardlaw Milne to move. Paragraph 91, page 43, Line 33, to leave out from ("order,") to the end of the line and to insert "must be understood as themselves adopting").

The Earl of Lytton to move. Paragraph 91, page 43, lines 36 to 38, to leave out from the second ("agents") in line 36 to the end of the sentence and to insert ("themselves would not feel secure that their identity might not be revealed").

The Marquess of Zetland, the Earl of Derby, the Lord Hardinge of Penshurst, the Lord Hutchison of Montrose, Major Cadogan, Sir Austen Chamberlain, and the Lord Eustace Percy to move. Paragraph 92, pages 43 and 44, leave out paragraph 92 and to insert the following new paragraph:—

("92. In the circumstances set out above we are convinced that it should be made plain that the control of the organisation which exists, or may hereafter exist, for the purpose of combating the terrorist movement, is in the hands of the Governor-General at the centre and of the Governors in the provinces. To secure the object which we have in view, we recommend that the Central Intelligence Bureau be placed under the control of the Governor-General, as part of the Political and Foreign Department, and that in any province in which a special branch of the Police force exists or may hereafter be brought into being, the Inspector General shall take his orders direct from the Governor as the agent of the Governor-General in all matters affecting the work of the special branch in whatever branch of police administration such matters may arise. We realise that in such circumstances, the Minister in charge of the portfolio of Law and Order might be unwilling to answer in the Legislature for action taken on the initiative of the Governor, and in that event we recommend that it shall be open to the Governor to appoint some person selected at his discretion to act as his spokesman in the Legislature").

The Earl of Lytton to move. Paragraph 92, pages 43 and 44, to leave out paragraph 92 and to insert the following new paragraph:—

("92. The existence of terrorist crime is a special disease which calls for special treatment. It necessitates departures from the ordinary law and the enactment of special legislation such as the Bengal Criminal Law Amendment Act. The Special Branch is an essential feature of the machinery for combating terrorist activities, and as such we consider that it requires special treatment. We therefore recommend that this small and exceptional service where it exists should be a reserved service responsible to the Governor alone.")

Sir John Wardlaw Milne to move. Paragraph 92, page 43, line 45, after ("Province") to insert (" (who should continue to have direct access to him) ").

Mr. Attlee, Mr. Cocks, Mr. Morgan Jones, and the Lord Snell to move. Paragraph 92, page 44, lines 10 to 13, to leave out from (" enforced.") in line 10 to ("We") in line 13.

The consideration of the said amendments is postponed.

Paragraphs 88 to 91 are again read as amended

It is moved by the Marquess of Linlithgow Paragraphs 88 to 91, pages 41 to 44, to leave out paragraphs 88 to 91 as amended and to insert the following new paragraphs:—

The Governor's special responsibility

("88 First, there are the proposals already made in the White Paper The Governor is to have a special responsibility for 'the prevention of any grave menace to the peace or tranquillity of the Province, or any part thereof The effect of this, as of all other special responsibilities, is to enable the Governor, if he thinks that the due discharge of his special responsibility so requires, to reject any proposals of his Ministers or himself to initiate action which his Ministers decline to take Further, there flows from this special responsibility, not only the right to overrule his Ministers, but also special powers—legislative and financial to enable him to carry into execution any course of action which requires legislative provision or the provision of supply If, therefore the Governor should be of opinion that the action or inaction of Ministers is jeopardising the peace or tranquillity of the Province, it will be his duty to take action to meet the situation If the situation is one requiring immediate action, he will issue any executive order which he may consider necessary If the situation is one which cannot be dealt with by an isolated executive order if the Minister in Charge of the Department appears unable to administer his charge on lines which the Governor regards as consistent with the due discharge of his special responsibility—the Governor will dismiss and replace the Minister (and, if necessary, the Ministers as a body, with or without resort to a dissolution of the Legislature) If he fails to find an alternative Government capable of administering Law and Order on lines consistent with the discharge of his special responsibility, he will be obliged to declare a breakdown of the constitution, and to assume to himself all such powers as he judges requisite to retrieve the situation We are not contemplating such a course of events as probable, but, if it occurs, provision is made to meet it

The Police Rules.

"89 We turn now to our own further recommendations for the specific protection of the Police Force itself. Of course, the due discharge of his special responsibility for peace and tranquillity will, in itself, entitle the Governor to intervene immediately if, by reason of ill timed measures of economy or the attempted exertion of political influence on the Police Force or from any other cause, the *morale* or the efficiency of that Force is endangered Further, the Governor has another special responsibility it is his duty to secure to the members of the Police, as of other Public Services any rights provided for them by the Constitution Act and to safeguard their legitimate interests These are important safeguards, but there is a special factor in police administration which requires to be specially protected We refer to the body of Regulations known as the "Police Rules", promulgated from time to time under powers given by the various Police Acts A large number of the Rules deal with matters of quite minor importance and are constantly amended, in practice, on the responsibility of the Inspector General of Police himself It would be unnecessary to require the Governor's consent to every amendment of this kind But the subject matter of some of the Rules is so vital to the well being of the Police Force that they ought not, in our opinion, to be amended without the Governor's consent, and the same consideration applies *a fortiori* to the Acts themselves, which form the statutory basis of the Rules Our aim should be to ensure that the internal organisation and discipline of the Police continue to be regulated by the Inspector-General, and to protect both him and the Ministers themselves from political pressure in this vital field We, therefore recommend that the consent of the Governor, given in his discretion, should be required to any

legislation which would amend or repeal the General Police Act in force in the Province or any other Police Acts (such as the Bombay City Police Act, the Calcutta Police Act, the Madras City Police Act, and Acts regulating Military Police in Provinces where such forces exist). We further recommend that any requirement in any of these Acts that Rules made under them shall be made or approved by the local Government is to be construed as involving the consent of the Governor, given in his discretion, to the making or amendment of any Rules which, in his opinion, relate to, or affect, the organisation or discipline of the Police.

"90. But there is another vital department of Police administration to which we must draw attention. "It has been represented to us very forcibly that, whatever may be the decision with regard to the transfer of Law and Order generally, special provision ought to be made with regard to that branch of the Police which is concerned with the suppression of terrorism. We do not here refer to those members of the Police who are occupied in combating terrorism as part of their regular functions in the prevention of crime and the maintenance of order, nor again to the Criminal Investigation Department which exists in every Province to assist the ordinary police in the detection of ordinary crime: we have in mind that organisation which is sometimes known as the Special Branch, a body of carefully selected officers whose duty is the collection and sifting of information on which executive police action against terrorism is taken. Their work necessarily involves the employment of confidential informants and agents and it is obvious that these sources of information would at once dry up if their identity became known, or were liable to become known, outside the particular circle of Police officers concerned. Though, at the moment, this problem is perhaps of immediate importance only in the Province of Bengal and, to a lesser extent, in the Provinces which border on Bengal, terrorism and revolutionary conspiracy have not been confined to those territories, nor consequently is the necessity for efficient counter-revolutionary measures limited to them. Bengal, however, as has been proved to us by the evidence we have received, has a particularly long and disquieting record of murder and outrage, of which Indians and Europeans have both been the victims. It has also shown, in a marked degree, a rise or fall in such terrorist crime according as the hands of the authorities have been weakened or strengthened, and as precautionary and special measures have been relaxed or intensified. The Special Branch.

"91. For these reasons, it is, in our view, essential that the records of any such Intelligence Department should be protected from even the slightest danger of leakage. Experience in every country shows how strict this protection must be. It has been argued that an Indian Minister, who may have to defend subsequently before the Legislature an arrest or prosecution made or begun by his orders, must have the right to satisfy himself that the information on which he is invited to act is in all respects trustworthy, and that the names of the informants or agents from whom it has been obtained could not in the last resort be withheld from him. We think that those who argue thus are not acquainted with the general practice in matters of this kind. We are informed by those who have experience of such matters in this country that the practice is that in a Secret Service case the names are not disclosed even to the Minister most immediately concerned. We have no reason to suppose that Indian Ministers will not adopt the same convention; but the difficulty arises not because Indian Ministers are likely to demand or disclose the names of informants or agents, but because the informants or agents themselves would not feel secure that their identity might not be revealed. So long as this doubt exists, the consequences are the same, whether it is ill-founded or not. We, therefore, recommend that the Instrument of Instructions of the Governors should specifically require them to Secret Intelligence reports.

give directions that no records relating to intelligence affecting terrorism should be disclosed to anyone other than such persons within the provincial Police Force as the Inspector-General may direct, or such other public officers outside that Force as the Governor may direct. We further recommend that the Constitution Act should contain provisions giving legal sanction for directions to this effect in the Instrument of Instructions")

It is moved by the Lord Rankeillour. As an amendment to the above amendment, to insert at the end of paragraph 89.—

("Lastly, we think that the Governor-General should be instructed to inform the Provincial Governors of any Rules which in his opinion should not be cancelled or altered without his consent.")

The amendment by leave of the Committee is withdrawn.

The original amendment is again moved.

The same is agreed to.

New paragraphs 88 to 91 are again read

The further consideration of paragraphs 88 to 91 is postponed.

Paragraph 92 is again read.

It is moved by the Marquess of Linlithgow. Pages 43 and 44, to leave out paragraph 92 and to insert the following new paragraph:—

Special powers required for combating terrorism.

("92. But, even so, the circumstances set out above render it imperative to arm the Governor with powers which will ensure that the measures taken to deal with terrorism and other activities of revolutionary conspirators are not less efficient and unhesitating than they have been in the past We are, indeed, particularly anxious not to absolve Indian Ministers, in Bengal or elsewhere, from the responsibility for combating terrorism, and we think that such executive duty should be clearly laid upon them. But the issues at stake are so important, and the consequences of inaction, or even of half-hearted action, for even a short period of time, may be so disastrous, that the Governor of any Province must, in our opinion, have a special power over and above his special responsibility 'for the prevention of any grave menace to peace and tranquillity' to take into his own hands the discharge of this duty, even from the outset of the new Constitution. This purpose would not be adequately served by placing the Special Branch of the Provincial Police alone in the personal charge of the Governor. That course has been urged upon us, but we are convinced that it falls short of what is required. Instead, we recommend that the Constitution Act should specifically empower the Governor, at his discretion, if he regards the peace and tranquillity of the Province as endangered by the activities, overt or secret, of persons committing or conspiring to commit crimes of violence intended to overthrow the Government by law established, and if he considers that the situation cannot otherwise be effectively handled, to assume charge, to such extent as he may judge requisite, of any branch of the government which he thinks it necessary to employ to combat such activities, or if necessary to create new machinery for the purpose. If the Governor exercises this power, he should be further authorised, at his discretion, to appoint an official as a temporary member of the Legislature, to act as his mouthpiece in that body, and any official so appointed should have the same powers and rights, other than the right to vote, as an elected member. The powers which we have just described would be discretionary powers, and the Governor would, therefore, be subject to the superintendence and control of the Governor-General, and ultimately of the Secretary of State, in

all matters connected with them. We should add that if conditions in Bengal at the time of the inauguration of Provincial Autonomy have not materially improved, it would, in our judgment, be essential that the Governor of that Province should exercise the powers we have just described forthwith and should be directed to do so in his Instrument of Instructions, which, in this as in other respects, would remain in force until amended with the consent of Parliament.[1]")

Objected to.

On Question:—

Contents (23)	Not Contents (3)
Marquess of Salisbury.	Lord Snell.
Marquess of Zetland.	Mr. Attlee.
Marquess of Linlithgow.	Mr. Morgan Jones.
Marquess of Reading.	
Earl of Lytton.	
Earl Peel.	
Viscount Halifax.	
Lord Middleton	
Lord Ker (M. Lothian).	
Lord Hardinge of Penshurst.	
Lord Rankeillour.	
Lord Hutchison of Montrose.	
Mr. Butler.	
Major Cadogan.	
Sir Austen Chamberlain.	
Sir Reginald Craddock.	
Mr. Davidson.	
Mr. Foot.	
Sir Samuel Hoare.	
Sir Joseph Nall.	
Lord Eustace Percy.	
Sir John Wardlaw-Milne.	
Earl Winterton.	

The said amendment is agreed to.

New paragraph 92 is again read.

The further consideration of paragraph 92 is postponed.

It is moved by the Marquess of Linlithgow. After new paragraph 92 to insert the following new paragraph:—

("92A. We have only to add that we have considered in this connexion a proposal made to us that the Intelligence Departments—or at all events the Special Branch where such exists—of the provincial Police Forces should be placed under the control of the Governor-General, who should utilise them, through the agency of the Governor, as local offshoots of the Central Intelligence Bureau. Central Intelligence Bureau. We agree with the ideas underlying this proposal to this extent, that it is essential that the close touch which has hitherto obtained between the Intelligence Departments of the Provinces and the Central Intelligence Bureau should continue. But to place the provincial Intelligence Departments under the departmental control of the Central Intelligence Bureau would, we think, be undesirable, as tending to break up the organic unity of the provincial Police Force. We recommend, therefore, that the Central Bureau should, under the new Constitution, be assigned to one of the Governor-General's Reserved Departments as part of its normal activities, and that the change in the form of government, whether at the Centre or in the Provinces, should not involve any

[1] Supra par. 73

change in the relationship which at present exists between the Central Bureau and the provincial Intelligence Departments. Should the Governor-General find that the information at his disposal, whether received through the channel of the Governors or from the provincial Intelligence Departments through the Central Intelligence Bureau, is inadequate, he will, in virtue of recommendations which we make later[1] possess complete authority to secure through the Governor the correction of any deficiencies, and indeed to point out to the Governor, and require him to set right, any shortcomings which he may have noticed in the organisation or activities of the provincial Intelligence Branch.")

The same is agreed to.

New paragraph 92A is again read.

The further consideration of paragraph 92A is postponed.

Paragraphs 93 to 346 are again read and postponed.

Paragraph 347 is read.

It is moved by the Lord Snell, Mr. Attlee, Mr. Cocks, and Mr. Morgan Jones. Pages 190 and 191, to leave out paragraph 347 and to insert the following new paragraph:--

("347. We are impressed with the insistence with which Indians of all sorts of opinion ask that a statement of their 'fundamental rights' should find a place in the new Constitution Act The Report of the Indian All-Parties Conference also made a strong point of this. The authors of the White Paper 'see serious objections' to giving statutory expression to a declaration of this character, and suggest that in connection with the inauguration of the new Constitution a pronouncement on the matter might be made by the Sovereign. We cannot forget that such a pronouncement was made by her late Majesty Queen Victoria in these words:

'We declare it to be our Royal will and pleasure that none be in any wise favoured, none elected, or disquieted, by reason of their religious faith or observances, but that all shall alike enjoy the equal and impartial protection of the law, and we do strictly charge and enjoin all those who may be in authority under us that they abstain from all interference with the religious belief or worship of any of our subjects on pain of our highest displeasure

'And it is our further will that, so far as may be, our subjects, of whatever race or creed, be freely and impartially admitted to office in our service, the duties of which they may be qualified by their education, ability and integrity to discharge.

'We know and respect the feelings of attachment with which the natives of India regard the lands inherited by them from their ancestors, and we desire to protect them in all rights connected therewith, subject to the equitable demands of the State, and we will see that generally in framing and administering the law, due regard be paid to the ancient rights, usages, and customs, of India.'

"We cannot pretend to believe that full effect has been given to the terms of that Royal Proclamation in India. In view of the fact that it has been impressed on the Indian delegates that no pledges or declarations are binding save such as are embodied in Acts of Parliament, we think the Indian plea is sound, that whenever possible their fundamental rights should be embodied in the Constitution Act and so be secured to them beyond the possibility of doubt. A proposed list of these "fundamental rights" is given in Chapter 7 of the Indian All Parties Conference. In reference to these they say:—

'Our first care should be to have our fundamental rights guaranteed

[1] *Infra*, para. 122.

in a manner which will not admit their withdrawal under any circumstances With perhaps less reason than we have, most of the modern constitutions of Europe have specific provisions to secure such rights to the people'

"They go on very pertinently to say that —

'Another reason why great importance attaches to a declaration of rights is the unfortunate existence of communal differences in the country Certain safeguards and guarantees are necessary to create and establish a sense of security among those who look upon each other with distrust and suspicion We could not better secure the full enjoyment of religious and communal rights to all communities than by including them among the basic principles of the constitution'")

The same is disagreed to

Paragraph 347 is again read

The further consideration of paragraph 347 is postponed

Paragraph 348 is again read

It is moved by Mr Attlee, Mr Cocks, Mr Morgan Jones, and the Lord Snell Page 191, line 10, after ('his') to insert (sex,)

The same is disagreed to

It is moved by the Lord Ker (M Lothian) Page 191, line 12, at the end to insert (' The proposal in the White Paper, however, goes on to say that 'no law will be deemed to be discriminatory for this purpose on ' the ground only that it prohibits either absolutely or with exceptions ' the sale or mortgage of agricultural land in any area or to any person ' not belonging to some class recognised as being a class of persons ' 'engaged in, or connected with, agriculture in that area, or which re- ' 'cognises the existence of some right, privilege or disability attaching " to members of a community by virtue of some privilege, law or custom having the form of law ' This proviso is intended to cover legislation ' such as the Punjab Land Alienation Act which is designed to protect ' the cultivator against the money lender This is no doubt a desirable ' object Inasmuch, however, as the full effect of the proviso cannot be 'foreseen and may have the result that the legitimate interests of ' minorities may be impaired while they are denied the right of appeal to "the Courts for redress, we think that in cases where the legitimate "interests of minorities may be adversely affected and access to the courts "is barred by this proviso in the constitution the Governor should con- "sider whether his special responsibility for the protection of minorities "necessitates action on his part")

The same is agreed to

Paragraph 348 is again read as amended

The further consideration of paragraph 348 is postponed

Paragraph 349 is again read

It is moved by Mr Morgan Jones, Mr Attlee, Mr Cocks, and the Lord Snell Page 191, to leave out paragraph 349

The amendment, by leave of the Committee, is withdrawn

It is moved by Mr Morgan Jones, Mr Attlee, Mr. Cocks, and the Lord Snell Page 191, lines 44 and 45, to leave out from ("purposes') in line 44 to ("should") in line 45

The amendment, by leave of the Committee, is withdrawn

It is moved by Mr Morgan Jones, Mr Attlee, Mr Cocks, and the Lord Snell Page 191, line 45, to leave out from ("Compensation") to ("should")

The amendment, by leave of the Committee, is withdrawn

It is moved by Mr. Morgan Jones, Mr. Attlee, Mr. Cocks, and the Lord Snell. Page 191, lines 46 to 49, to leave out from ("prohibited") to the end of the paragraph.

The amendment, by leave of the Committee, is withdrawn.

Paragraph 349 is again read.

The further consideration of paragraph 349 is postponed.

It is moved by Mr. Butler and Sir Samuel Hoare. Page 191, after paragraph 349 to insert the following new paragraph:—

Special case of grants of land or of tenure of land free of land revenue.

("349A But there is another form of private property—perhaps more accurately described as 'vested interest'—common in India which we think requires more specific protection. We refer to grants of land or of tenure of land free of land revenue, or subject to partial remissions of land revenue, held under various names (of which Taluk, Inam, Watan, Jagir and Muafi are examples) throughout British India by various individuals or classes of individuals. Some of these grants date from Moghul or Sikh times and have been confirmed by the British Government: others have been granted by the British Government for services rendered. Many of the older grants are enjoyed by religious bodies and are held in the names of the managers for the time being. The terms of these grants differ: older grants are mostly perpetual, modern grants are mostly for three, or even two, generations But, whatever their terms, a grant of this kind is always held in virtue of a specific undertaking given by, or on the authority of, the British Government that, subject in some cases to the due observance by the grantee of specified conditions, the rights of himself and his successors will be respected either for all time or, as the case may be, for the duration of the grant. A well-known instance of such rights is to be found in those enjoyed by the present Talukdars of Oudh, who owe their origin to the grant to their predecessors in 1858, after the Oudh Rebellion and the consequent confiscation of talukdari rights previously claimed in Oudh, of sanads of Lord Canning, the then Governor-General, conferring proprietary rights upon all those who engaged to pay the *jumma* which might then or might from time to time subsequently, be fixed subject to loyalty and good behaviour, and the rights thus conferred were declared to be permanent, hereditary and transferable.")

The same is agreed to.

New paragraph 349A is again read as amended.

The further consideration of paragraph 349A is postponed

It is moved by Mr. Butler and Sir Samuel Hoare. Page 191. After paragraph 349A, to insert the following new paragraphs:—

Prior consent of Governor-General or Governor should be required to legislation affecting such grants.

("349B. It is not unnatural that the holders of privileges such as we have described should be apprehensive lest the grant of responsible government, and the consequent handing over to the control of Ministers and Legislatures of all matters connected with land revenue administration, should result in a failure to observe the promises which have been extended by Governments in the past to themselves or their predecessors in interest. Some of the claims to protection which have been urged upon us in this connexion would be satisfied, by little less than a statutory declaration which would have the effect of maintaining unaltered and unalterable for all time, however strong the justification for its modification might prove to be in the light of changed circumstances, every promise or undertaking of the kind made by the British Government in the past. We could not contemplate so far-reaching a limitation upon the natural consequences of the change to responsible government. We recommend, however, that the Constitution Act should contain an appropriate provision requiring the prior consent of the Governor-General or the Governor, as the case may be, to any proposal, legislative or executive, which would alter or prejudice the rights of the possessor of any privilege of the kind to which we have referred.

349C. We have considered whether similar provision should be made to protect the rights of Zamindars and others who are the successors in interest of those in whose favour the Permanent Settlement of Bengal, Bihar and Orissa and parts of the United Provinces and Madras was made at the end of the 18th century. Briefly, the effect of this Settlement was to give a proprietary right in land to the class described as Zamindars, on the understanding that they collected and paid to Government the revenue assessed on that land which was fixed at rates declared at the time to be intended to stand unaltered in perpetuity. It is apparent that the position of Zamindars under the Permanent Settlement is very different from that of the individual holders of grants or privileges of the kind we have just described; for, while the privileges of the latter might, but for a protection such as we suggest, be swept away by a stroke of the pen with little or no injury to any but the holder of the vested interest himself, the alteration of the character of land revenue settlement in Bengal, for instance, would involve directly or indirectly the interests of vast numbers of the population in addition to those of the comparatively small number of Zamindars proper, and might indeed produce an economic revolution of a most far-reaching character. Consequently, no Ministry or Legislature in Bengal could, in fact, embark upon, or at all events carry to a conclusion, legislative proposals which would have such results unless they had behind them an overwhelming volume of public support. Moreover, while we do not dispute the fact that the Permanent Settlement is an arrangement which is binding upon the British Government as one of the parties to it, we could not regard this fact as involving the conclusion that it must be placed beyond the legal competence of an Indian Ministry responsible to an Indian Legislature which is to be charged *inter alia* with the duty of regulating the land revenue system of the Province to alter the enactments embodying the Permanent Settlement, which enactments, despite the promises of permanence they contain, are legally subject (like any other Indian enactment) to repeal or alteration. At the same time, we feel that the Permanent Settlement is not a matter for which, as the result of the introduction of Provincial Autonomy, His Majesty's Government can properly disclaim all responsibility; and we think that the Governor should be enabled on their behalf to intervene at the earliest stage if proposals are made for the modification of the Settlement which, in his opinion, would be prejudicial to any of the interests involved. We recommend, therefore, that in this case also the Constitution Act should require that the previous sanction of the Governor given in his discretion should be the condition precedent to the introduction of any Bill which would alter the character of the Permanent Settlement. **The Permanent Settlement.**

"349D. In concluding this chapter of our Report, we take the opportunity of mentioning a topic which can conveniently be dealt with here, though it has no very direct connexion with the question of discrimination or of fundamental rights. It has been urged on us that provision should be made requiring the English language to be the official language of the Federation, or, more particularly, that English should receive legal status as the official language of the Constitution and of the superior Courts, and as one of the official languages of the Provincial Governments. In our judgment, no useful purpose would be served by a general declaration in the sense just indicated, and any such declaration would at once give rise to questions of great difficulty and complexity in relation to education. Our recommendations set out in this chapter include language amongst the grounds upon which, in certain cases, discrimination is to be inadmissible, and these recommendations will accordingly prevent any individual who falls within the scope of the protection of these provisions from being discriminated against on the ground that his mother tongue is English. Apart from this, we recommend that the Letters Patent issued to the High Courts should prescribe English **The English language.**

as the language of these Courts, and we think that the constitution Act might well provide, as do the Statutory Rules made under the existing Government of India Act at the present moment, that the business of all the Legislatures is to be conducted in English, subject to appropriate provision ensuring the right of any member unacquainted with English to address the Council in the vernacular. At the present moment the language of the Subordinate Courts is laid down by each provincial Government under provisions in the Codes of Civil and Criminal Procedure. We see no reason to suppose that the Provincial Governments will cease to exercise this power under the new Constitution or that they will exercise it in an unreasonable manner.")

New paragraphs 349B and 349C are, by leave of the Committee, withdrawn.

New paragraph 349D is agreed to.

New paragraph 349D is again read.

The further consideration of paragraph 349D is postponed.

Paragraph 350 is read and postponed

Paragraph 351 is read.

It is moved by the Lord Rankeillour. Page 192, line 37, leave out from ("period,") to ("in").

The same is agreed to.

Paragraph 351 is again read as amended.

The further consideration of paragraph 351 is postponed.

It is moved by Mr. Attlee, Mr. Cocks, Mr. Morgan Jones, and the Lord Snell Page 192, after paragraph 351 to insert the following new paragraph:—

("351A. Whilst however we are unable to recommend at the moment the specific grant of Constituent Powers we consider that the new Constitution must have within itself provisions whereby developments may take place. We would point out that in our own country constitutional development has taken place not so much by specific enactments as by usage, custom and the falling into desuetude of certain rights. We consider therefore, that the instrument of instructions to the Governor-General and the Provincial Governors should be so drafted as to allow of such modifications and developments taking place and further that a variation from time to time of the instrument of instructions will provide the means of a steady transfer of responsibility to Ministers and the elected representatives of the Indian people. Thus India will be enabled to follow the same path towards greater responsibility as has been trodden by other parts of the British Empire.")

The amendment, by leave of the Committee, is withdrawn.

Paragraphs 352 to 356 are again read and postponed.

Paragraph 357 is again read.

It is moved by the Lord Ker (M. Lothian). Page 195, line 20, after ("Federation") to insert ("except that any Provincial legislature should "have power to propose the removal of the 'application' requirement and "the lowering of the educational standard to literacy in the case of women "voters, as set forth in paragraph 134, at any time after the first election "in the province under the new constitution.")

The same is agreed to.

Paragraph 357 is again read as amended.

The further consideration of paragraph 357 is postponed.

Paragraphs 358 to 360 are again read and postponed

Paragraph 361 is read

It is moved by Mr Attlee, Mr Cocks, Mr Morgan Jones, and the Lord Snell Page 197, lines 30 to 33, to leave out from ("Ministers") in line 3 to the end of the paragraph and to insert ("We should like 'to see Indian affairs brought at once under the Dominions Office. 'Failing this, and as a step in that direction, we recommend the 'merging of the India Office into a new office with a Secretary of 'State for the self governing parts of the British Commonwealth of 'Nations in the East This would include not only India but Ceylon, 'Burma if separated and other portions of the British Empire in 'the East as and when they become self governing)

The same is disagreed to.

Paragraph 361 is again read

The further consideration of paragraph 361 is postponed

Ordered that the Committee be adjourned till tomorrow at half past Ten o'clock

— — — — — —

Die Martis 17° Julii 1934

Present:

Lord Archbishop of Canterbury.
Marquess of Salisbury.
Marquess of Zetland.
Marquess of Linlithgow.
Marquess of Reading.
Earl of Lytton.
Earl Peel.
Viscount Halifax.
Lord Middleton
Lord Kerr (M. Lothian)
Lord Hardinge of Penshurst.
Lord Snell.
Lord Rankeillour
Lord Hutchison of Montrose

Mr. Attlee.
Mr. Butler.
Major Cadogan.
Sir Austen Chamberlain.
Mr Cocks
Sir Reginald Craddock.
Mr. Davidson.
Mr. Foot.
Sir Samuel Hoare.
Sir Joseph Nall.
Lord Eustace Percy.
Sir John Wardlaw-Milne.
Earl Winterton.

The Marquess of Linlithgow in the Chair

The Order of Adjournment is read

The Proceedings of yesterday are read

Paragraph 362 is read.

It is moved by Mr Attlee Mr Cocks and the Lord Snell Page 197, line 35, to leave out ("less") and to insert ("more")

The same is disagreed to

It is moved by Sir Samuel Hoare and Mr Butler Page 198, line 4, to leave out ("two") and to insert ("three").

The same is agreed to.

It is moved by Sir Samuel Hoare and Mr Butler Page 198, line 10, at the end to insert (": and, thirdly, in order to secure that, in "matters where the concurrence of the majority of his advisers will "be required, the Secretary of State shall be an effective participant "in their deliberations, it seems desirable to us that the Secretary "of State shall, in case of equality of votes, have a second or casting "vote.")

The same is agreed to.

Paragraph 362 is again read as amended.

The further consideration of paragraph 362 is postponed

Paragraph 363 is again read and postponed.

Paragraph 364 is again read.

It is moved by Mr Attlee, Mr. Cocks, and the Lord Snell. Page 198, lines 40 to 42, to leave out from ("that") in line 40 to ("any") in line 42.

The same is disagreed to.

It is moved by Mr. Attlee. Page 198, line 44, after ("changes") to insert ("should be granted compensation out of British revenues.")

Objected to.

All amendments are to the Draft Report (*vide infra* paras. 1-42B, pp. 470-491; and *vide supra* paras. 43-453, pp. 64-254) and NOT to the Report as published. (Vol. I, Part I).

A Key is attached (see pp. 521-544), showing on which pages of the Proceedings amendments to each paragraph can be found.

On Question:—

Content (1)	Not Contents (18).
Mr. Attlee.	Lord Archbishop of Canterbury.
	Marquess of Salisbury.
	Marquess of Zetland.
	Marquess of Linlithgow.
	Marquess of Reading.
	Earl Peel.
	Lord Middleton.
	Lord Ker (M. Lothian).
	Lord Hardinge of Penshurst.
	Lord Rankeillour.
	Mr. Butler.
	Sir Austen Chamberlain
	Sir Reginald Craddock.
	Mr. Foot.
	Sir Samuel Hoare.
	Sir Joseph Nall.
	Lord Eustace Percy.
	Earl Winterton.

The said amendment is disagreed to.

It is moved by Sir Samuel Hoare and Mr. Butler Page 198, line 44, at the end to insert ("and we intend that the expression 'India "Office Staff' in this connexion should be interpreted as including "members of the Audit Office and former members of the India Office "now serving in the Office of the High Commissioner for India.")

The same is agreed to.

Paragraph 364 is again read, as amended.

The further consideration of paragraph 364 is postponed

Paragraph 365 is again read and postponed.

Paragraph 366 is again read.

It is moved by Mr. Attlee, Mr. Cocks, and the Lord Snell. Page 200, to leave out paragraph 366 and to insert the following new paragraph:—

("366. The White Paper proposes, in paragraph 32, that a Reserve Bank, 'free from political influence, will have been set up by Indian legislation,' before the first Federal Ministry comes into being. If it should be proved impossible successfully to start the Reserve Bank, His Majesty's Government 'are pledged to call into conference representatives of Indian opinion.' We note that neither at the first nor at the second Round Table Conference was the establishment of the Reserve Bank treated as a condition precedent to the inauguration of the Federation. It was an entirely new proposal brought forward at the third Round Table Conference. We understand that the Indian Legislature has already passed a Reserve Bank of India Act, and we venture to hope that the date of its inauguration may be speedily decided, since we understand that the beginning of the Indian Federation depends upon it. Assuming the establishment of the Bank, we suggest that the Governor and Deputy Governor should be selected by the Governor-General in consultation with his Ministers.

"We are not in agreement with the underlying conception of the establishment of the Reserve Bank, namely, that it should be entirely free from political influence.

"We consider that decision of policy in respect of credit and currency are vital interests of the community. They should not be made by shareholders whose private interests may not coincide with the welfare of the State, but should be influenced by the Government.

"In any event it should be made clear that India's currency and credit policy will be decided in accordance with her own needs and not by the influence of external financial interests or foreign creditors.")

The same is disagreed to.

Paragraph 366 is again read.

The further consideration of paragraph 366 is postponed.

Paragraphs 367 and 368 are again read and postponed.

Paragraph 369 is again read.

It is moved by the Lord Eustace Percy. Page 201, line 23, after ("basis.") to insert ("We think also that it is unwise absolutely to "prohibit the Governor General from appointing a servant of the "Crown in India as a member of the Authority".)

The amendment, by leave of the Committee, is withdrawn.

It is moved by Mr. Attlee, Mr. Cocks, and the Lord Snell Page 201, line 23, after ("basis.") and to insert: —

("The Minister who is responsible to the Legislature for the Indian Railways and for the Railway Budget should be *ex officio* Chairman of the Railway Board, but we consider that it is undesirable that he should be subject to interpellation on details of administration, particularly on those relating to appointments and promotions").

The same is disagreed to.

Paragraph 369 is again read

The further consideration of paragraph 369 is postponed.

Paragraph 370 is read.

It is moved by Sir John Wardlaw Milne. Page 202, line 5, at the end to insert the following new sub paragraph:—

("(*c*) The continuance in full force of the contracts at present existing with the Indian Railway Companies and the security of the payments periodically due to them in respect of guaranteed interest, share of earnings and surplus profits, as well as their right in accordance with their contracts to have access to the Secretary of State in regard to disputed points and, if desired, to proceed to arbitration. (Para. 4).")

The same is agreed to.

Paragraph 370 is again, read, as amended.

The further consideration of paragraph 370 is postponed.

The Appendix (IV) is again read and postponed.

Paragraphs 371 to 373 are again read and postponed.

Paragraph 374 is again read.

It is moved by the Lord Rankeillour. Page 208, line 15, at the end to insert ("and his salary should not be votable").

The same is agreed to.

Paragraph 374 is again read as amended.

The further consideration of paragraph 374 is postponed.

Paragraphs 375 to 379 are again read and postponed.

Paragraph 380 is again read.

It is moved by Mr. Attlee, Mr. Cocks, and the Lord Snell. Page 212, lines 11 to 15, to leave out from the beginning of the paragraph to the end of the first sentence and to insert: –

("The present practice in the case of the Dominions is that the Dominion Governments appoint their own High Commissioners as a matter of right without any provision being necessary in their constitutions. We think that India in this matter should stand in the same position and that the High Commissioner for India should have full power to act on the instructions of the Government of India without there being any necessity for reference to Whitehall. The High Commissioner will no doubt continue to serve Provincial Governments as well as the Federal Government.")

The amendment, by leave of the Committee, is withdrawn.

Paragraph 380 is again read.

The further consideration of paragraph 380 is postponed.

Paragraphs 381 to 386 are read and postponed.

Paragraph 387 is again read.

It is moved by the Marquess of Linlithgow. Page 216, line 13, to leave out ("unlike the Indian White Paper")

The same is agreed to.

Paragraph 387 is again read, as amended.

The further consideration of paragraph 387 is postponed.

Paragraph 388 is again read and postponed.

Paragraph 389 is again read.

It is moved by the Marquess of Linlithgow Page 216, line 31, to leave out ("Bengal") and to insert ("Burma")

The same is agreed to.

Paragraph 389 is again read, as amended.

The further consideration of paragraph 389 is postponed

Paragraph 390 is again read and postponed

Paragraph 391 is again read.

It is moved by the Marquess of Linlithgow. Page 217, lines 32 and 33, to leave out ("of India upon Burma has been") and to insert ("which Burma can exert on Indian political influence and the interest which India generally feels in Burma's affairs are").

The same is agreed to.

Paragraph 391 is again read, as amended

The further consideration of paragraph 391 is postponed.

Paragraphs 392 and 393 are again read and postponed.

Paragraph 394 is again read.

It is moved by the Marquess of Linlithgow. Page 219 line 8, after ("Burma") to insert ("unlike all other Provinces except Bombay").

The same is agreed to.

Paragraph 394 is again read, as amended.

The further consideration of paragraph 394 is postponed.

Paragraph 395 is read and postponed.

Paragraph 396 is read.

It is moved by the Earl Peel. Page 220, lines 12 and 13, to leave out from ("which") in line 12 to ("would") in line 13 and to insert ("in our "judgment").

The same is agreed to.

Paragraph 396 is again read, as amended.

The further consideration of paragraph 396 is postponed.

Paragraph 397 is again read.

It is moved by the Marquess of Linlithgow. Page 221, lines 10 and 11, to leave out from ("reinforced.") in line 10 to ("but") in line 11 and to insert ("Federation would not come into being simultaneously "with Provincial Autonomy").

The same is agreed to.

It is moved by the Marquess of Linlithgow. Page 221, line 12, to leave out ("It") and to insert ("Federation").

The same is agreed to.

It is moved by the Lord Rankeillour. Page 221, line 17, after ("all") to insert ("and if approved by the Burmese Legislature or a "majority of the electors in a referendum,").

The amendment, by leave of the Committee, is withdrawn.

Paragraph 397 is again read as amended.

The further consideration of paragraph 397 is postponed

Paragraphs 398 to 402 are again read and postponed.

Paragraph 403 is again read.

It is moved by the Marquess of Linlithgow. Page 224, line 18, to leave out from ("imposed") to the second ("to") and to insert ("within "limits sufficiently low").

The same is agreed to.

Paragraph 403 is again read as amended.

The further consideration of paragraph 403 is postponed.

Paragraphs 404 and 405 are again read and postponed.

Paragraph 406 is again read.

It is moved by the Lord Rankeillour. Page 225, line 36, to leave out ("for a prescribed period").

The same is disagreed to.

Paragraph 406 is again read.

The further consideration of paragraph 406 is postponed.

Paragraph 407 is again read.

It is moved by the Marquess of Linlithgow. Page 226, line 4, to leave out ("desirability") and to insert ("necessity").

The same is agreed to.

Paragraph 407 is again read, as amended.

The further consideration of paragraph 407 is postponed.

Paragraphs 408 to 414 are again read and postponed.

Paragraph 415 is again read.

It is moved by the Marquess of Linlithgow. Page 229, line 31, after ("the") to insert ("comparative").

The same is agreed to.

Paragraph 415 is again read, as amended.

The further consideration of paragraph 415 is postponed.

Paragraphs 416 to 419 are again read and postponed.

Paragraph 420 is again read

It is moved by the Marquess of Linlithgow. Page 232, line 6, after ("Burma") to insert ("though we assume that there would continue to "be a General Officer in command of the regular military forces").

The same is agreed to.

It is moved by the Marquess of Linlithgow. Page 232, lines 19 to 21, to leave out from ("kind") in line 19 to the end of the sentence.

The same is agreed to.

Paragraph 420 is again read, as amended

The further consideration of paragraph 420 is postponed

Paragraph 421 is again read.

It is moved by the Marquess of Linlithgow. Page 232, line 22, after ("comment") to insert ("except, in regard to the latter, to state beyond "the possibility of misunderstanding that they have no concern with the "Buddhist religion or any other religion of the population at large").

The same is agreed to.

Paragraph 421 is again read, as amended.

The further consideration of paragraph 421 is postponed

Paragraph 422 is again read.

It is moved by the Marquess of Linlithgow. Page 232, lines 37 to 39, to leave out from ("Federation") in line 37 to the end of the sentence and to insert ("A Reserve Bank of India has now been authorised by "Act of the Indian Legislature and measures are therefore in train for "the fulfilment of the condition precedent".)

The same is agreed to.

Paragraph 422 is again read, as amended.

The further consideration of paragraph 422 is postponed

Paragraph 423 is again read.

It is moved by Sir John Wardlaw Milne. Page 233, lines 19 and 20, to leave out from ("Department") in line 19 to the end of the sentence.

The same is agreed to.

Paragraph 423 is again read, as amended.

The further consideration of paragraph 423 is postponed.

Paragraphs 424 to 428 are again read and postponed.

Paragraph 429 is again read.

It is moved by the Lord Ker (M. Lothian). Page 236, line 8 to leave out ("very striking") and to insert ("considerable").

The same is agreed to.

It is moved by the Lord Ker (M. Lothian). Page 236, lines 14 to 15, to leave out from the second ("5;") to the end of line 15, and to insert ("if all women eligible to vote apply to be put on the register. The "proportionate increase in the Burmese electorate is thus somewhat less "than that in the case of India, both in the case of men and women. "The reason for this is that the number of voters on the register in "Burma is already considerably higher in proportion to population "than in India and").

The same is agreed to.

It is moved by the Lord Ker (M Lothian) Page 236, line 17, to leave out from ("India") to the end of the sentence and to insert ("which means that a property qualification results in a larger propor- "tion of the population being placed on the roll").

The same is agreed to.

It is moved by Sir John Wardlaw-Milne. Page 236, line 31, to leave out ("a means") and to insert ("for the purpose").

The same is agreed to

Paragraph 429 is again read, as amended.

The further consideration of paragraph 429 is postponed.

Paragraph 430 is again read.

It is moved by the Marquess of Linlithgow. Page 236, line 44, after ("also") to insert ("as in British India").

The same is agreed to.

Paragraph 430 is again read, as amended.

The further consideration of paragraph 430 is postponed.

Paragraphs 431 to 435 are again read and postponed.

Paragraph 436 is again read.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 241, line 14, at the end to insert ("We think that the restrictions on the powers of "the Legislature both in regard to the application of enactments passed "by it and in regard to questions and resolutions which we have re- "commended elsewhere in regard to similar areas in British India, "should apply in regard to the Excluded Areas and Partially Excluded "Areas of Burma.")

The same is agreed to.

Paragraph 436 is again read, as amended.

The further consideration of paragraph 436 is postponed.

Paragraph 437 is again read and postponed.

Paragraph 438 is again read.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 241, lines 36 and 37, to leave out from the first ("to") in line 36 to the end of the sentence, and to insert ("remain members of the Indian Civil Service, "seconded for service under the Government of Burma and to retain all "the rights and privileges of that service. If we correctly understand "this request to mean that the officers in question desire that though no "longer subordinate in any degree to the Governor-General of India in "Council, they should still be entitled to describe themselves as mem- "bers of the Indian Civil Service, to which they were in fact recruited, "we see no objection to acceding to their desire.")

The same is agreed to.

Paragraph 438 is again read, as amended.

The further consideration of paragraph 438 is postponed.

Paragraph 439 is again read

It is moved by the Marquess of Linlithgow Page 242, lines 3-5, to leave out from ("it") in line 3 to ("enjoy") in line 5 and to insert ("includes certain appointments the incumbents of which")

The same is agreed to

Paragraph 439 is again read, as amended

The further consideration of paragraph 439 is postponed

Paragraph 440 is again read

It is moved by the Marquess of Linlithgow Page 242, lines 24 and 25, to leave out from ("being") in line 24 to the end of the paragraph and to insert ("some recruitment by the Secretary of State "of European medical officers must continue")

The same is agreed to.

Paragraph 440 is again read, as amended

The further consideration of paragraph 440 is postponed

Paragraphs 441 to 444 are again read and postponed

Paragraph 445 is again read

It is moved by Sir Samuel Hoare and Mr Butler Page 244, line 7, at the end to insert ("But the separation of Burma from "India will create a special category of persons in Burma of United "Kingdom domicile for whose protection in India, provision will, we "think, require to be made in the Constitution Act for India rather "than that for Burma We refer to the case of Companies established "already in Burma with United Kingdom personnel and United Kingdom "capital Such Companies have established themselves in Burma as a "Province of British India and we think that it would evidently be "inequitable if, after the separation of Burma, they are in a less "favourable position in respect of their operations in British India "than a Company established at the same time and under the same "conditions in, say, Bombay or Bengal")

The same is agreed to

Paragraph 445 is again read, as amended

The further consideration of paragraph 445 is postponed

Paragraphs 446 to 449 are again read and postponed

Paragraph 450 is again read

It is moved by the Marquess of Linlithgow Page 246, line 8, after ("Burma") to insert ("But as Burma after separation will be a "unitary State and will not be within the jurisdiction of the Indian "Federal Court, we think that an appeal should lie as of right to the "Privy Council from the High Court in any case involving the "interpretation of the Constitution Act We take this opportunity "to record our opinion that the recommendations which we have made "elsewhere for the prescription of English for the conduct of business "in the Indian Legislatures should apply equally to the case of the "High Court and the Legislature in Burma As regards audit "arrangements, it is evident that Burma will require after separation "her own audit system")

The same is agreed to

It is moved by Sir Samuel Hoare and Mr Butler Page 246, line 14, at the end to insert ("We think that liberty should be afforded "in the Act for the new Burma Government to establish a High "Commissioner of its own in London if it finds it necessary to do so, "but we foresee the possibility that the amount of business requiring "to be transacted in London on behalf of the Government of Burma "may be so small as not to justify, at the outset, the expense of

"establishing such an office; and we think that it might be well to "examine the possibility of the functions of such an official being "undertaken by some other authority on an agency basis for the time "being.")

The same is agreed to.

Paragraph 450 is again read, as amended.

The further consideration of paragraph 450 is postponed.

Paragraph 451 is again read.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 246, line 20, after ("Burma.") to insert ("It follows that there should be a "transference of the rights, liabilities and obligations incurred by the "Secretary of State in Council in respect of Burma to the appropriate "authority to be established in Burma, corresponding to the trans- "ference to the Federal or Provincial Governments in India which "in an earlier passage we have suggested should be provided for in "the Indian Constitution.")

The same is agreed to.

It is moved by the Marquess of Linlithgow. Page 246, line 30, after ("person.") to insert ("There is, we are convinced, no real "danger that the interests of Burma would be unfairly subordinated "to those of India in the hands of a Secretary of State holding the "double office.")

The same is agreed to.

Paragraph 451 is again read, as amended.

The further consideration of paragraph 451 is postponed.

Paragraph 452 is again read.

It is moved by the Marquess of Linlithgow. Page 246, line 33, to leave out ("on service matters") and to insert ("on questions con- "cerning Burma").

The same is agreed to.

It is moved by the Marquess of Linlithgow.

Page 246, line 35, to leave out ("certain") and to insert ("Service").

The same is agreed to.

It is moved by the Marquess of Linlithgow. Page 246, line 38, after ("concerned") to insert ("which are and will continue to be "*ejusdem generis*," in India and Burma").

The same is agreed to.

Paragraph 452 is again read, as amended.

The further consideration of paragraph 452 is postponed.

Paragraph 453 is again read and postponed.

Ordered, that the Committee be adjourned to Friday next at halft-past Ten o'clock.

Die Veneris 20° Julii 1934

Present:

LORD ARCHBISHOP OF CANTERBURY.
LORD CHANCELLOR.
MARQUESS OF SALISBURY.
MARQUESS OF ZETLAND.
MARQUESS OF LINLITHGOW.
MARQUESS OF READING.
EARL OF DERBY.
EARL OF LYTTON.
EARL PEEL.
LORD MIDDLETON.
LORD KER (M. LOTHIAN).
LORD HARDINGE OF PENSHURST.
LORD SNELL.
LORD RANKEILLOUR.
LORD HUTCHISON OF MONTROSE.

MR. ATTLEE.
MR. BUTLER.
MAJOR CADOGAN.
SIR AUSTEN CHAMBERLAIN.
MR. COCKS.
SIR REGINALD CRADDOCK.
MR. DAVIDSON.
MR. FOOT.
SIR SAMUEL HOARE.
LORD EUSTACE PERCY.
SIR JOHN WARDLAW-MILNE.
EARL WINTERTON.

THE MARQUESS OF LINLITHGOW in the Chair.

The Order of Adjournment is read.
The proceedings of Tuesday last are read.

Paragraphs 1 to 45 are again postponed.

Paragraph 46 is again read.

It is moved by the Marquess of Linlithgow. Page 22, lines 6 and 7, to leave out from ("that") in line 6 to ("by") in line 7, and to insert ("exclusively provincial sphere practically free from control").

It is moved by the Marquess of Salisbury. As an amendment to the above amendment, to leave out ("practically") and to insert ("broadly").

The same is agreed to.
The original amendment is again moved.
The same is agreed to, as amended.

It is moved by the Marquess of Linlithgow. Page 22, line 23, after ("sphere") to insert ("though, as we shall explain later, the Governor-"General in virtue of his power of supervising the Governors will "have authority to secure compliance in certain respects with direc-"tions which he may find it necessary to give").

The same is agreed to.

Paragraph 46 is again read, as amended.
The further consideration of paragraph 46 is postponed.

Paragraphs 47 to 57 are again postponed.

Paragraph 58 is again read.

It is moved by the Marquess of Linlithgow. Page 28, lines 12 to 14, to leave out from ("and") in line 12 to the end of the sentence and to insert ("it appears to us that any financial difficulties likely "to be caused thereby are not serious enough to outweigh the advantages "which will accrue from the separation").

The same is agreed to.

Paragraph 58 is again read, as amended.
The further consideration of Paragraph 58 is postponed.

Paragraph 59 is again postponed.

All amendments are to the Draft Report (*vide infra* paras. 1—42B, pp. 470—491; and *vide supra* paras. 43—453, pp. 64—253) and NOT to the Report as published (Vol. I, Part 1).
A Key is attached (see pp. 521—544), showing on which pages of the Proceedings amendments to each paragraph can be found.

Paragraph 60 is again read.

It is moved by the Marquess of Linlithgow. Page 29, line 14, at the end to insert ("We make recommendations later in this Report "with regard to changes to be effected in the Act by Order in "Council and the parliamentary control to be exercised over them").

It is moved by the Marquess of Salisbury. As an amendment to the above amendment, at the beginning of the amendment to insert ("of course subject to the sanction of Parliament.")

The amendment to the amendment, by leave of the Committee, is withdrawn.

The original amendment is again moved.

The same is agreed to.

Paragraph 60 is again read, as amended

The further consideration of paragraph 60 is postponed.

Paragraph 61 is again read.

It is moved by the Marquess of Linlithgow. Page 29, lines 19 to 21, to leave out from ("that") in line 19 to the end of the paragraph and to insert ("appropriate provision should be made in the Constitu- "tion Act to ensure that the Provinces affected and the Central Govern- "ment are given adequate opportunities for expressing their views.")

The same is agreed to.

Paragraph 61 is again read as amended.

The further consideration of paragraph 61 is postponed.

Paragraphs 62 to 67 are again postponed.

Paragraph 68 is again read.

It is moved by the Marquess of Linlithgow. Page 32, line 20, to leave out ("unqualified").

The same is agreed to.

It is moved by the Marquess of Linlithgow Page 32, line 21, after ("rule") to insert ("as it is understood in this country").

The same is agreed to

It is moved by the Marquess of Linlithgow. Page 32, line 25, to leave out ("the") and to insert ("a").

The same is agreed to.

Paragraph 68 is again read, as amended.

The further consideration of paragraph 68 is postponed.

Paragraphs 69 to 72 are again postponed.

Paragraph 73 is again read.

It is moved by the Marquess of Linlithgow. Page 34, line 36, after ("deny") to insert ("the two Houses of").

The amendment, by leave of the Committee, is withdrawn.

It is moved by the Marquess of Linlithgow. Page 34, line 46, at the end, to insert ("We suggest the appropriate procedure should be that "the Crown should communicate to Parliament a draft of the proposed "Instrument or of any subsequent amendments and that Parliament "will then present an Address praying that the Instrument should issue "in the form of the draft or with such modifications as are agreed "by both Houses, as the case may be").

It is moved by the Marquess of Salisbury. As an amendment to the above amendment, line 4 of the amendment to leave out ("then") and to insert ("if it sees fit").

The same is agreed to.

The original amendment is again moved.

The same is agreed to as amended.

Paragraph 73 is again read, as amended.

The further consideration of paragraph 73 is postponed.

Paragraphs 74 to 95 are again postponed.

Paragraph 96 is again read.

It is moved by the Marquess of Linlithgow. Page 46, lines 34 and 35, to leave out from ("contemplate") in line 34 to ("as") in line 35.

The same is agreed to.

It is moved by the Marquess of Linlithgow. Page 46, lines 37 to 41, to leave out from ("Deputy Governor") in line 37 to ("There") in line 41.

The same is agreed to.

Paragraph 96 is again read, as amended.

The further consideration of paragraph 96 is postponed.

Paragraphs 97 to 115 are again postponed.

Paragraph 116 is again read.

It is moved by the Marquess of Linlithgow. Page 57 to leave out paragraph 116.

The amendment, by leave of the Committee, is withdrawn.

Paragraph 116 is again read.

The further consideration of paragraph 116 is postponed.

Paragraphs 117 to 120 are again postponed.

Paragraph 121 is again read, as amended, and is as follows:—

The White Paper proposals accepted.

121. The Communal Award was criticised by more than one witness who appeared before us on the ground that it operates inequitably in the case of Bengal, and even more inequitably with the modifications resulting from the Poona Pact. There was also criticism of the Award from other Provinces in which the Hindus are in a minority; but elsewhere the Award appears to have met with acceptance, and we entertain no doubt that if any attempt were now made to alter or modify it, the consequences would be disastrous. The arrangement which it embodies appears to us to be well thought out and balanced, and to disturb any part of it would be to run the risk of upsetting the whole. It accepts indeed the principle of separate electorates for the Muhammadan, Sikh, Indian Christian, Anglo-Indian, and European communities, but we recognize that this is an essential and inevitable condition of any new constitutional scheme. We may deplore the mutual distrust of which the insistence on this demand by the minorities is so ominous a symptom, but it is unhappily a factor in the situation which cannot be left out of account, nor do we think that we can usefully add anything to what we have already said on the subject. We accept therefore the proposals in the White Paper for the composition of the Legislative Assemblies. We feel somewhat differently, however, about the Poona Pact. We consider that the original proposals of His Majesty's Government constitute a more equitable settlement of the general communal question and one which is more advantageous to the Depressed Classes themselves in their present stage of development. They united the two sections of the Hindu Community by making them vote together in the general constituencies, thereby compelling candidates to consider the well-being of both sections of his constituents when appealing for their support, while they secured to the Depressed Classes themselves sufficient spokesmen in the legislature, elected wholly by depressed class votes, to ensure their case being heard and to influence voting, but not so numerous that the Depressed Classes will probably be unable to find representatives of adequate calibre with results unfortunate both to themselves and the

legislatures. That solution was altered, in a great hurry, under-pressure of Mr. Gandhi's 'fast unto death.' In view of the fact that His Majesty's Government felt satisfied that the agreement come to at Poona fell within the terms of their original announcement and accepted it as a valid modification of the communal award, we do not feel able to recommend them now to reject it But subsequently to the arrangement of the Pact objections to it, in relation to Bengal, have been strongly urged by caste Hindus from that Province. We should welcome an agreement between the caste Hindus and Depressed Classes to reduce the number of seats reserved to the latter in Bengal, possibly with some compensatory increase in such seats in some other Provinces, where a small addition in favour of the Depressed Classes would not be likely materially to affect the balance of communities in the Legislature.

It is moved by the Marquess of Reading, the Lord Ker (M. Lothian), Mr Foot, Sir Samuel Hoare, and Mr Butler Lines 19 and 20 to leave out from ("Assemblies") in line 19 to ("consider") in line 20 and to insert ("As regards the Poona Pact we are bound to say that we").

The same is agreed to

It is moved by the Marquess of Reading, the Lord Ker (M. Lothian), Mr Foot, Sir Samuel Hoare, and Mr Butler Line 21 to leave out ("constitut ") and to insert ("constituted")

The same is agreed to

It is moved by the Marquess of Reading, the Lord Ker (M Lothian), Mr Foot, Sir Samuel Hoare, and Mr Butler. Line 23 to leave out ("is") and to insert ("was").

The same is agreed to.

It is moved by the Marquess of Reading, the Lord Ker (M. Lothian), Mr. Foot, Sir Samuel Hoare and Mr Butler Line 31 to leave out ("will probably") and to insert ("would")

The same is agreed to.

It is moved by the Marquess of Reading, the Lord Ker (M. Lothian), Mr. Foot, Sir Samuel Hoare, and Mr Butler Lines 32 to 43 to leave out from ("calibre") in line 32 to ("where") in line 43 and to insert ("Under the pressure of Mr. Gandhi's fast these proposals were precipi-"tally modified; but in view of the fact that His Majesty's Government "felt satisfied that the agreement come to at Poona fell within the "terms of their original announcement and accepted it as an authori-"tative modification of the Communal Award, we are clear that it "cannot now be rejected. Nevertheless, as we have said, objections to "the Pact in relation to Bengal have since been strongly urged by "caste Hindus from that Province; and if by agreement between the "communities concerned some reduction were made in the number of "seats reserved to the Depressed Classes in Bengal possibly with "compensatory increase in the number of their seats in other Pro-"vinces")

The same is agreed to

It is moved by the Marquess of Reading, the Lord Ker (M. Lothian), Mr. Foot, Sir Samuel Hoare, and Mr. Butler. Line 45 at end to insert ("we are disposed to think that the working of the new "Constitution in Bengal would be facilitated.")

The same is agreed to.

Paragraph 121 is again read, as amended

The further consideration of paragraph 121 is postponed.

Paragraphs 122 to 131 are again postponed

Paragraph 132 is again read.

It is moved by the Marquess of Linlithgow. Page 65, lines 14 to 18, to leave out from ("and") in line 14 to ("the") in line 18, and to insert ("we have reason to believe that there is for example even "now a large body of opinion in India which would condone").

The same is agreed to.

Paragraph 132 is again read, as amended.

The further consideration of paragraph 132 is postponed.

Paragraph 133 is again postponed.

Paragraph 134 is again read.

It is moved by the Marquess of Linlithgow. Page 66, line 27, to leave out ("women") and to insert ("wives or widows").

The same is agreed to.

Paragraph 134 is again read, as amended.

The further consideration of paragraph 134 is postponed

Paragraphs 135 to 137 are again postponed.

Paragraph 138 is again read

It is moved by the Marquess of Linlithgow. Page 68, line 10, at the end to insert ("or (2) which affects religion or religious rites and "usages").

The same is agreed to

Paragraph 138 is again read as amended

The further consideration of paragraph 138 is postponed.

Paragraph 139 is again read.

Page 68, lines 11 to 19, to leave out from the beginning of the paragraph to ("We") in line 19 and to insert ("We do not think that the "consent of the Governor should any longer be required to the intro "duction of legislation which affects religion or religious rites and "usages. We take this view, not because we think that the necessity "for such consent might prejudice attempts to promote valuable social "reforms, which has been suggested as a reason for dispensing with it, "but because in our judgment legislation of this kind is above all other "such as ought to be introduced on the responsibility of Indian Minis "ters We have given our reasons elsewhere for holding that matters "of social reform which may touch, directly or indirectly, Indian reli- "gious beliefs can only be undertaken with any prospect of success "by Indian Ministers themselves, and, that being so, we think it "undesirable that their responsibility in this most important field "should be shared with a Governor. It has been objected that the 13 "mere introduction of legislation affecting religion or religious rites "and usages might be dangerous at times of religious or communal "disturbance, and might indeed itself produce such disturbance We "observe, however, a Proposal in the White Paper[1] whereby the "Governor would be empowered, in any case in which he considers "that a Bill introduced or proposed for introduction, or any clause "thereof, or any amendment to a Bill moved or proposed, "would affect the discharge of his special responsibility for the "prevention of any grave menace to the peace or tranquillity "of the Province, to direct that the Bill, clause or amendment "shall not be further proceeded with. This appears to us an "ample safeguard against the danger to which we have referred; and "in addition it would of course always be open to the Governor, in his "discretion, to refuse his assent to any Bill which has been passed by "the Legislature, if in his opinion it is undesirable on any ground that "it should become law ")

> **It is moved by the Lord Rankeillour As an amendment to the above amendment line 13 of the amendment, after ("Governor ") to insert ("It must be remembered that the Governor has the right "of veto in respect of all legislation, and in this case it would be "open to him, if he "thought it right, to exercise this power in "protection of the interests of minorities in accordance with his "special responsibility.")**

The amendment, to the amendment, by leave of the Committee, is withdrawn.

[1] White Paper, Proposal 94.

The original amendment is again moved.
The same is agreed to.
Paragraph 139 is again read, as amended.
The further consideration of paragraph 139 is postponed.
Paragraphs 140 to 154 are again postponed.
Paragraph 155 is again read
It is moved by the Marquess of Linlithgow. Page 78, lines 39 and 40, to leave out from ("that") in line 39, to the first ("the") in line 40.
The same is agreed to.
It is moved by the Marquess of Linlithgow. Page 78, line 41, to leave out ("so long as this is so") and to insert ("this being so").
The same is agreed to
Paragraph 155 is again read, as amended.
The further consideration of paragraph 155 is postponed.
Paragraphs 156 to 163 are again postponed.
Paragraph 164 is again read.
It is moved by the Marquess of Linlithgow. Page 83, line 35, to leave out (" (ii) the Governor General's selection of Ministers;").
The same is agreed to.
Paragraph 164 is again read as amended
The further consideration of paragraph 164 is postponed.
Paragraphs 165 to 313 are again postponed.
Paragraph 314 is again read.
It is moved by the Marquess of Linlithgow Page 174, lines 37 to 43, to leave out from the beginning of line 37 to the end of the paragraph.
The same is agreed to.
Paragraph 314 is again read, as amended
The further consideration of paragraph 314 is postponed
Paragraphs 315 to 317 are again postponed
Paragraph 318 is again read
It is moved by the Marquess of Linlithgow Page 176, line 47, to leave out ("town-bred") and to insert after ("pleaders") ("from the "towns").
The same is agreed to.
Paragraph 318 is again read, as amended
The further consideration of paragraph 318 is postponed
Paragraphs 319 to 453 and 1 to 516 are again postponed.
Paragraph 56 is again read.
It is moved by Sir Reginald Craddock Page 26, line 40 to page 27, line 11, to leave out from ("taken "[1]) in line 40, page 26, to the end of the paragraph on page 27.
The same is disagreed to.
It is moved by Sir Reginald Craddock. Page 27, after paragraph 56 to insert the following new paragraph:—

("56A. The separation of Sind from Bombay is an old controversy but its constitution as a separate Governor's Province is a problem which has arisen out of the constitutional reform and has now become a focus of communal strife. Long before its creation into a separate Province came into prominence, the question whether it should be detached from Bombay and attached to the Punjab was at one time a serious issue. The Bombay Government was opposed to this step, but in the event of its separation demanded territorial compensation which would have dismembered other Provinces, and on account of their opposition the matter was dropped. The construction of the Sukkur Barrage, while bringing the creation of Sind into a separate Province into greater prominence, necessarily revives the issue as to whether a better alternative might not be found by its amalgamation with the Punjab. For the adoption of this latter alternative there are two important reasons. First because this amalgamation would bring the Indus River within the confines and under the jurisdiction of a single Province and a single staff of engineering experts instead of leaving the utilisation of the

Upper Indus under one Government and the area commanded by the Sukkur system under another. This would provoke acute controversy between the two Provinces and between the interests of the upper riparian people in the Punjab and the lower riparian people in Sind. Once this question of the Indus supply was put under the control of a single administration, then the interests of both sets of people would weigh equally with the single Government responsible for both alike. Also incidentally the cost of the supervising staff might be considerably cheapened. The second reason is that the Punjab would be equally interested with Sind in the rapid colonisation of the large areas which are awaiting colonists and irrigation. We are informed that Sikh farmers of good class have already been attracted to the new areas in Sind. The last census of 1931, shows that there are now 18,000 Sikhs in Sind, and the influx of sturdy farmers of this description would be a very helpful asset to the progress of that territory This aspect of the Sind question has been strongly advanced by Sir Henry Lawrence, who has served for 18 years in that Province and was Commissioner in Sind before he became an Executive Councillor of the Bombay Government. We regard it as an alternative proposal deserving the attention of the several Governments concerned before a final decision has been made in favour of the creation of a Sind Province. It has the further advantage that the railway connection between the Punjab and Karachi is more developed than that between Sind and Bombay, and it would give the Punjab a port of its own at Karachi. It would also ease the feeling amongst Hindus in a separated Sind of hopeless numerical inferiority to the Moslems. There can be no doubt about the genuineness of Hindu anxiety at finding themselves as they would describe it, at the mercy of a large fanatical Moslem population Under impartial British rule they have, by superior education and wealth, obtained a prominence in public affairs which would not otherwise have been possible, and they fear that under the new Constitution, especially if Law and Order be transferred, they will become victims of Moslem lawlessness and will steadily be ousted from their present position These risks are by no means imaginary, for while in the towns they may be sufficiently numerous to protect themselves, it is otherwise in the villages, and even in the past the scattered Hindus in the rural areas have been the victims of dacoities, kidnapping and murder. In Bombay including Sind the ratio of Hindus to Moslems is nearly 4 to 1; in a separated Sind the ratio drops to but a little over 1 to 4 Hitherto, on the existing franchise, Hindus being wealthier, have had higher voting strength than their numerical proportion. With the lowering of the franchise they fear that Moslems will gain the ascendancy. There are only 230,000 persons who are literate in Sind, of whom the greater proportion consists of Hindus It is believed everywhere that the decision to create the new Sind Province was a concession to Moslem sentiment, and Moslems in other Provinces have espoused the cause of their Sind brethren by means of a division of territory which would secure them a large permanent majority over the Hindu. It is in our judgment open to much doubt whether we should be justified in making territorial adjustments which have the effect of turning a large majority into a small minority, and on this ground, alone we think that the creation of Sind into a separate Province is inexpedient and likely to provoke violence and even bloodshed, which might have grave repercussions in many other parts of India. Apart, however, from these considerations, we regard the financial prospects as definitely unfavourable to the creation of Sind as a new Province at the present time. This argument was stressed by the Statutory Commission. Several estimates have been framed at different times of the probable deficit in the finances of a separated Sind, the extra expenditure entailed by the reformed Constitution there, and the probable duration of the period before Sind may be expected to pay its way. The development of irrigation under the Barrage in

the first two or three years since it has been completed does not necessarily prove that its further development will continue with equal rapidity. Account must be taken of the reduced credit of the rural population under the effect of the calamitous fall in prices of agricultural produce, and even if the overhead charges of making Sind a Governor's Province are kept within the narrowest limits the fact remains that the taxpayers of India generally have to bear additional burdens in order to gratify Moslem pride. Financial considerations, therefore, strongly indicate the advisability of postponing this change until the actual results of the Barrage, rather than estimates made now which may prove too optimistic, have rendered it certain that Sind has become self-supporting. The fact that the Sukkur Barrage is proposed by the White Paper to constitute a special responsibility of the Governor, though valuable in securing in some measure the impartial administration of the colonisation rules or the appointment of suitable experts, has little bearing on the rapidity with which the land is taken up, for no Governor is able by the exercise of his authority to secure the influx of new colonists if the supply of such falls short of the capacity of the land. For all these reasons the better course appears to us that Sind should continue as a sub-Province included in Bombay at least for ten years, during which time the advisability of attaching it to the Punjab can be thoroughly examined and the financial future of Sind, if constituted a new Province, can be ascertained with reasonable accuracy ")

Objected to.

On Question:—

Contents (3)	Not Contents (18)
Marquess of Salisbury	Lord Chancellor.
Lord Rankeillour.	Marquess of Zetland.
Sir Reginald Craddock	Marquess of Linlithgow
	Marquess of Reading
	Earl of Lytton.
	Lord Ker (M Lothian)
	Lord Hardinge of Penshurst
	Lord Hutchison of Montrose
	Mr. Attlee.
	Mr Butler.
	Sir Austen Chamberlain
	Mr Cocks.
	Mr. Davidson.
	Mr. Foot.
	Sir Samuel Hoare
	Lord Eustace Percy
	Sir John Wardlaw Milne.
	Earl Winterton.

The said amendment is disagreed to.

Paragraph 57 is again postponed.

Paragraph 58 is again read.

It is moved by Sir Reginald Craddock Page 28, to leave out paragraph 58 and to insert the following new paragraph:—

("58. The problem of Orissa differs from that of Sind. Long before the people of Orissa thought of themselves as a separate Province their anxiety was concentrated on the inclusion into Orissa of adjacent Oriya-speaking areas from the Madras Presidency and the Oriya States under the political administration of the Central Provinces, in addition to the Sambalpur District which is

divided from the rest of Orissa by a number of these States. The changes then effected were part of the Partition of Bengal, whereby Bengal proper was bereft of Eastern Bengal and thus consisted of Western Bengal, Bihar, Chota Nagpur and Orissa. In exchange for the Oriya-speaking States, Bengal gave to the Central Provinces five Hindi-speaking States. Upon the revocation of the Partition at the end of 1911, Bengal received back the Eastern Bengal Provinces and the non-Bengali-speaking territories of Bihar and Chota Nagpur, to which also was added Orissa, were made the new Province of Bihar and Orissa No attempt was made, however, to separate the Oriya-speaking part of Ganjam from the Madras Presidency in order to include it in Orissa proper. This has really been the standing grievance of Orissa, and it can be rectified by the addition of this territory whether Orissa is made into a separate Province or not. We consider that this grievance should be met by revision of the boundary between Orissa and the Madras Presidency, but the question of constituting a separate Province of Orissa by itself is an entirely separate one. Orissa, even with the territory now proposed to be added, is nothing but a Commissioner's Division in area and population, as well as in importance The decision to take away the Oriya speaking and the adjacent Hindi speaking States of the C. P from the Governments now responsible for them and placing them under the Central Government has greatly reduced the charge which the Commissioner of Orissa has hitherto had in his keeping. The Sambalpur District and the Kharar Zamindari, (which is now to be added to Orissa), are no longer so convenient a portion of that Province now that the States have been transferred to the control of the Governor-General Orissa is for the most part backward, it contains a large number of aboriginal tribes and it has not really the making of a full fledged Governor's Province. It had much better be treated, if it is to be separated, as a Chief Commissioner's Province, in which case it might be allowed the privilege of a small Legislature, similar to that granted to the small Province of Coorg, but the better alternative in our opinion would be to leave it for ten years as a part of Bihar and Orissa, and during that period to examine at leisure whether it might not be more appropriately restored to Bengal Financially, it is likely to be a deficit Province for an unknown period of time, and the extent of the deficit will be increased by the overhead charges of constituting it a separate Governor's Province In addition to the reasons which we have mentioned, the costitution of this small linguistic Province will create a most inconvenient precedent, for next door to it is a large Telegu speaking area There are said to be six million people only in Orissa, of whom only about five million are Oriya speaking; but the Telegu area, which has already been given the name of the Andhra Province, contains no less than eighteen million Telegu speakers who are anxious to separate themselves from the Tamils of Madras. There are no more reasons for keeping the Oriyas outside Bengal than there are for refusing a similar claim made by the Telegu speakers of the Madras Presidency. Further than that, any movement towards creating linguistic areas, if encouraged now, would lead to linguistic claims which would entail the dismemberment of various Provinces. It would have the further very serious effect of running counter to the unity of India as a whole, for if different languages cannot compose their differences within the limits of a single Province, it can scarcely be expected of the infinitely greater number of linguistic divisions over India as a whole to compose their much greater differences in a joint Central Government. In other words, the distribution of India by linguistic Provinces would increase greatly those centrifugal tendencies which militate against the success of the whole Federal Scheme. Lastly, whatever may have been the motives of those who framed the constitution of the White Paper, the whole of India considers that the proposal to create a new Province of Sind is

intended to placate Moslem sentiment, and similarly the creation of a new Province of Orissa is intended as a counterpoise to gratify Hindu sentiment. It is in our opinion undesirable that the creation of small areas into new Provinces should be effected with any other consideration than the intrinsic merits of changes that are so expansive and place a burden on the whole of the tax-payers of India for the sake of only ten million out of a total population (excluding Burma) of 338 million.")

The same is disagreed to.

Paragraph 58 is again read.

The further consideration of paragraph 58 is postponed.

Paragraphs 59 to 92 are again postponed.

Paragraph 93 is again read.

It is moved by the Marquess of Zetland, the Earl of Derby, the Lord Hardinge of Penshurst, the Lord Hutchison of Montrose, Major Cadogan, Sir Austen Chamberlain, and the Lord Eustace Percy. Page 44, lines 40 to 42, to leave out from ("notice.") in line 40 to the end of the paragraph.

The same is agreed to.

Paragaraph 93 is again read, as amended.

The further consideration of paragraph 93 is postponed.

Paragraphs 94 to 162 are again postponed.

Paragraph 163 is again read.

It is moved by Sir Reginald Craddock. Page 83, line 29, at the end to insert ("A point of difficulty arises with regard to the Royal Pre "rogative of mercy in the case of death sentences. Under the Code of "Criminal Procedure a condemned prisoner, whose petition has been "rejected by the Local Government, can petition the Governor-General "in Council, and under the procedure laid down in the rules of business "the member in charge of the Home Department of the Government of "India deals with the case and can reject such a petition without "reference to the Viceroy, but if the Home Member wishes to commute "a death sentence he must refer the case to the Viceroy. It is open to "the Viceroy then either to concur with the Home Member or to consult "the Law Member before passing his own orders, or to circulate the "case to the Council, but Constitutionally the Viceroy, as Governor "General, cannot overrule the majority of the Council, if in disagree-"ment with him. Since 1916, however, the Royal Prerogative of mercy "has been definitely delegated to the Viceroy himself, thereby confer-"ring upon him the power of overruling the Council in the matter "of commuting a death sentence. Under the proposed New Constitu-"tion, the Minister in charge of the Home Department will presum-"ably exercise the same right of advising the Governor-General as to "the commutation or otherwise of a death sentence, and the question "arises whether the exercise of the Royal Prerogative by the Governor-"General in his capacity of Viceroy will override the Constitutional "power of the Minister in the direction of enabling the Viceroy to "refuse to commute the death sentence which the Minister advises "should be commuted. We consider that the ultimate decision, whether "to exercise this prerogative or to let the law take its course, should "rest with the Viceroy alone").

The amendment, by leave of the Committee, is withdrawn.

Paragraph 163 is again read.

The further consideration of paragraph 163 is postponed.

Paragraphs 164 to 201 are again postponed.

Paragraph 202 is again read.

It is moved by the Marquess of Reading, the Lord Ker (M. Lothian), and Mr. Foot. Page 101, line 12, after ("them") to insert ("as being "impracticable at the present time,").

The same is agreed to.

It is moved by the Marquess of Reading, the Lord Ker (M. Lothian), and Mr Foot. Page 101, line 17, after ("that") to insert ("in present circumstances").

The same is agreed to.

Paragraph 202 is again read as amended.

The further consideration of Paragraph 202 is postponed.

New Paragraph 202A is again read.

It is moved by the Marquess of Reading, The Lord Ker (M Lothian), and Mr. Foot. To leave out new paragraph 202A and to insert the following new paragraph:—

Indirect election to be regarded in the nature of an experiment.

("202A We feel strongly, however, that it is not possible for Parliament to lay down to-day the exact method of constituting the central legislature for any long period of time The question has been repeatedly examined both before the passage of the present Government of India Act by the Statutory Commission and by the Round Table Conferences and the Indian Franchise Committee in connection with the present proposals for reform Throughout this whole period opinion have been deeply divided and no clear cut solution has emerged, as indeed was to be expected when an attempt is being made to create a federation on a scale and of a character hitherto without precedent. We have chosen the system of indirect election by the provincial legislatures, not because we do not feel the force of the arguments which can be brought against it, but because we think that it is the arrangement which will give the most practical system at the outset of the Federation Moreover, while it will be possible in future to pass from the indirect to the direct system of election should experience show that step to be advisable, the maintenance and still more the extension of the system of direct election to-day would be to commit India to a system which logically leads to adult suffrage before any way has been discovered of overcoming the insuperable objections to the gigantic constituencies containing hundreds of thousands of voters which are inevitable with adult franchise in India under the ordinary system of direct election. We feel that the ultimate solution may well be found in some variant either of the system whereby groups of primary voters elect secondary electors who vote directly for members of the federal assembly or of the system whereby those already elected to local bodies, such as village panchayats, are the voters who vote directly for members of that assembly. Systems of this kind apparently work with considerable success in many countries where conditions are not dissimilar to those in India But the discovery of the best method of adapting those ideas to India's needs and of removing the obstacles which now stand in the way of their adoption is clearly one which should be made by Indians themselves in the light of their experience of the practical working of representative institutions under the new Constitution. We consider, therefore, that our proposals should be regarded as being in the nature of an experiment and that further consideration should be given to the question of the method of composing the central legislature in the light of practical working of the constitution. We do not propose that there should be any formal examination of the problem by a statutory Commission after any specific date, for we think that experience has shown that there are strong objections to automatic provisions of this kind. But we consider that Parliament should recognise that after sufficient time has elapsed to enable clear judgments to be formed of the way in which the constitution works and of the new political forces it has brought into being, it may be necessary to make amendments in the method of composing the central legislature, and we hope that if Indian opinion thinks modification is required

the Indian federal legislature will lay its own proposals **before** Parliament in the form recommended in paragraphs 356 and 357 of this Report.")

The same is agreed to

New paragraph 202A is again read.

The further consideration of paragraph 202A is postponed.

Paragraphs 203 to 316 are again postponed.

Paragraph 317 is again read.

It is moved by Sir Reginald Craddock. Page 176, lines 15 and 16, to leave out ("ultimately to the Central Government") and to insert ("after that to the Governor-General in Council".)

The same is agreed to

Paragraph 317 is again read as amended

The further consideration of paragraph 317 is postponed.

Paragraph 318 is again read.

It is moved by Sir Reginald Craddock. Page 177, line 3, after ("for") to insert ("permanent").

The same is agreed to.

Paragraph 318 is again read as amended.

The further consideration of paragraph 318 is postponed.

Paragraphs 319 to 453 are again postponed.

Ordered, that the Committee be adjourned to Monday next at half-past Four o'clock.

Die Lunae 23° Julii 1934

Present

LORD ARCHBISHOP OF CANTERBURY
MARQUESS OF SALISBURY
MARQUESS OF ZETLAND
MARQUESS OF LINLITHGOW
EARL OF DERBY
EARL OF LYTTON
EARL PEEL
VISCOUNT HALIFAX
LORD MIDDLETON
LORD KERR (M LOTHIAN)
LORD HARDINGE OF PENSHURST
LORD RANKEILLOUR
LORD HUTCHISON OF MONTROSE

MR ATTLEE
MR BUTLER
MAJOR CADOGAN
SIR AUSTEN CHAMBERLAIN
MR COCKS
SIR REGINALD CRADDOCK
MR DAVIDSON
MR FOOT
SIR SAMUEL HOARE
MR MORGAN JONES
SIR JOSEPH NALL
LORD EUSTACE PERCY
SIR JOHN WARDLAW MILNE
EARL WINTERTON

THE MARQUESS OF LINLITHGOW in the Chair

The Order of Adjournment is read

The Proceedings of Friday last are read

Paragraphs 1 to 325 are again postponed

Paragraphs 326 to 329 are again read

The following amendments are laid before the Committee

Sir John Wardlaw Milne to move Paragraph 327 page 181, lines 7 to 15, to leave out from ("responsibility") in line 7 to the end of the paragraph

Sir John Wardlaw Milne to move Paragraph 328, page 181, line 21 after ("enjoyed") to insert (", as an integral part of the British Empire,") lines 29 and 30 to leave out ("Autonomy") in lines 29 and 30 line 34, to leave out ("unrestricted") line 35 to leave out ("of the basis"), line 36 after ("proceed") to insert ("and which forms the basis of the delegation of powers set out in the Convention itself")

Sir John Wardlaw Milne to move Paragraph 329 page 182, lines 13 to 16 to leave out from ("countries") in line 13 to ("that") in line 16 and insert ("and")

The consideration of the said amendments is postponed

It is moved by Sir Joseph Nall and the Earl of Derby Pages 180 to 182, to leave out paragraphs 326 to 329 inclusive and to insert the following new paragraphs

("326 The importance attached in this country to this part of the Indian Constitutional problem has been very much misunderstood in India We believe our first duty is to define the problem with which we are dealing in such a way as to remove the grounds for much, if not all, of the misunderstanding *Reasons why statutory provision is necessary*

"The Second Round Table Conference in 1931 adopted a resolution to the effect that there should be no discrimination between the rights of the British mercantile community, firms and companies, trading in India, and the rights of Indian born subjects, witnesses who appeared before us spoke in the same sense, and the British Indian Delegation in their Joint Memorandum state that on the question of principle there has always been a substantial measure of agreement in India On the other hand, we have been assured no less strongly by those who represent British commercial

All amendments are to the Draft Report (*vide infra* paras 1 42B, pp 470 491, and *vide supra* paras 43 453, pp 64 253) and NOT to the Report as published (Vol I, Part I).

A Key is attached (see pp 521 544), showing on which pages of the Proceedings amendments to each paragraph can be found

interests that they ask for no exceptional or preferential treatment of British trade as against Indian trade, and on this aspect of the matter their policy is one of a fair field and no favour. The question therefore resolves itself to a consideration of the best method of giving practical effect to the avowed policy and intentions of all concerned.

"It may be asked why, in view of this evidence of common agreement, it should be necessary to deal with the matter at all in the Constitution Act. There are, we believe, two very good and powerful reasons for doing so—one of a general juridical character and the other political. The juridical reason arises from the fact that the relations between India and the United Kingdom, after the passing of the Act, will be in every way exceptional There will be no background of common usage or international law such as exists between two foreign countries, and by mutual consent influences both parties in their dealing with one another apart from any treaty engagements they may have exchanged.

"The second reason is political in the sense that it arises from the necessity of coping with deep seated and widely held beliefs, which must be satisfied if the reforms as a whole are to succeed. In India it has been freely suggested that H. M. Government are seeking to impose unreasonable fetters upon the future Indian legislature for the purpose of securing exceptional advantage to British at the expense of Indian commerce. The suggestion is without foundation, and can only be countered by clear proposals which will show how false it is. On the other hand, there have been statements of a very disturbing character made from time to time by influential persons in India which could not fail to give rise to suspicions and doubts in this country, thus making statutory provision by way of reassurance an evident necessity, without at all implying a belief on our part that it really is the accepted policy of any Indian political leaders to destroy or injure British commercial interests by unfair or discriminatory legislation or otherwise.

Administrative Discrimination.

"327. Discrimination may be of two kinds, administrative or legislative, and we propose in the first place to consider the administrative form.

"We agree with the proposal in the White Paper that the Governor General and Governors in their respective spheres should have imposed upon them a special responsibility for the prevention of discrimination, thus enabling them, if action is proposed by their Ministers which would have discriminatory effect, to intervene, and, if necessary, either to decline to accept their advice or (as the case may require) to exercise the special powers which flow from the possession of special responsibility.")

The Fiscal Convention.

"328. Before considering the scope which should be given to provisions in restraint of legislative discrimination generally in matters other than tariffs and other regulations directly affecting imports of merchandise, we think it is essential to deal quite separately with that particular problem which quite obviously calls for treatment very different from that which is necessary or appropriate in such matters as company law, or internal taxation affecting British companies, persons, or property actually within the frontiers of India at the material time. In the case of tariffs or other regulations affecting imports, the problem is one of policy as well as practice.

"We think it right to observe that it is not our intention that any of the provisions which we contemplate for the purpose of preventing discrimination, whether administrative or legislative, should be so utilised as to interfere with the recommendations made by the Joint Committee on the Bill of 1919 commonly called the Fiscal Convention

"At the same time, fears have been expressed lest the unrestricted operation of this Convention might result, with no remedy available, in the imposition of penal tariffs upon British goods or the application on British goods of penally restrictive regulations with the object, not of fostering Indian trade in a manner and to a degree which would be recognised as reasonable, but rather and primarily with the object of injuring and excluding British trade possibly in order to put pressure on this country for political purposes possibly to give expression to extreme political sentiments or for reasons of that general character.

"We are satisfied that it was not in the minds of the authors of the Fiscal Convention and has never during the period of its operation been in the mind of His Majesty's Government that the Convention should be invoked in aid of such a policy and we have been assured by the Indian Delegates that there would be no desire in India that such freedom as they enjoy under the Convention should be utilised in future for a purpose so destructive of the basis of that conception of partnership upon which the whole of our recommendations proceed. In these circumstances we shall in fact be making no change in the existing fiscal relation between India and this country if we seek to make plain on the face of the Statute that it is not a legitimate or permissible use of the Fiscal Convention to discriminate against British trade as such. We think it essential that on this matter there should be no ground for misapprehension in future.

"It is the more desirable that something of this nature should be done when it is borne in mind that a statutory definition of the position is often of itself sufficient to prevent disputes arising, and that apart from the terms of the Act the relations between India and the United Kingdom in this particular respect will be nowhere expressly defined or even broadly indicated as will be the case between India and foreign countries where treaty law and the accepted canons of international law and usage will apply.

"We therefore recommend that to the special responsibilities of the Governor-General enumerated in the White Paper there should be added a further special responsibility defined in some such terms as follows:

"The prevention in connection with fiscal measures or measures for the control or regulation of import trade or with the administration of such measures of the subjection of British goods imported into India from the United Kingdom to any form of discriminatory treatment whether such discrimination should take the form of

(a) discrimination against U. K. products as compared with imports from other countries directly by means of differential rates of tariff or indirectly by means of differential treatment of various types of products;

or (b) discrimination against U. K. interests as compared with Indian interests by the attempted establishment on goods of U. K. origin of levels of import duty or other restrictions of a prohibitory or penal character in excess of the equitable requirements of the economic situation in India;

or (c) discrimination such as would arise by action in violation of any agreement subsisting at the time between the Governments of India and the U. K. as regards rates of tariff and margins of preference;

or (d) commercial or trade agreements with countries other than the United Kingdom which would place India under an obligation to treat the goods and merchandise of the U. K. less favourably than those of another country or other countries;

or (e) any other action having a discriminatory effect."

The Governor-General's Instrument of Instructions.

"329. But in making this recommendation we further recommend that the Governor-General should be given clear directions in his Instrument of Instructions as to the scope of the special responsibility in question

"The instructions we contemplate would indicate that this special responsibility is not intended to affect the competence of the Indian Legislature and of his Government to develop their own fiscal and economic policy that the duty imposed upon him by this provision is that of preventing imports from the United Kingdom from being subjected to specially unfavourable treatment in respect of such matters as customs duties, regulations or restrictions other than measures concerned with the preservation of Health; that he should understand that the Federal Government naturally enjoys complete freedom to negotiate with other countries for the securing of mutual tariff concessions and that he has no functions in connection therewith unless and until tariff legislation is proposed which embodies discrimination against [illegible] imports within the limits defined in our recommendations; and finally that he should be enjoined that it is his duty under this special responsibility not only to prevent discriminatory action, legislative or administrative, but also action which though not in form discriminatory is so in fact.")

The proposed new paragraph was, by leave of the Committee, withdrawn.

It is moved by the Lord Lu[illegible] Percy, Pages 180 and 181, to leave out paragraphs 326 and 327 and to insert the following new paragraphs:

Definition of problem

"326. The importance attached in this country to this part of the Indian constitutional problem has been much misunderstood in India. We believe that our first duty is to define it in such a way as to remove this misunderstanding. In our view the problem is divisible into two entirely separate issues. The only one of these issues dealt with in the White Paper is the question of administrative and legislative discrimination against British commercial interests and British trade in India. With this issue we deal later in this Report.[1]

The Fiscal Convention.

"327 The other issue which we now proceed to consider is that of discrimination against British imports. As is well known the fiscal relations between the United Kingdom and India have now been regulated for some thirteen years by the recommendations of the Joint Committee on the Bill of 1919, commonly known as the Fiscal Convention. It is a commonplace that the exact scope and effects of this Convention have afforded much ground for discussion and that the Convention has not, as indeed could hardly have been expected—succeeded in placing beyond controversy the rights and duties of the two parties to it. But with the passing of a new Constitution Act on the lines of the recommendations which we make in this Report the Convention in its present form at all events will necessarily lapse and unless the Constitution Act otherwise provides the Federal Legislature will enjoy complete fiscal freedom with little in the nature of settled tradition to guide its relation[illegible] in fiscal matters with this country. The difficulties which would be likely to arise from this uncertainty would moreover find a fruitful source of increase in the atmosphere of misunderstanding to which we have alluded. It is suggested in India that in seeking to clarify the fiscal relations between India and themselves His Majesty's Government are seeking to impose unreasonable fetters upon the future Indian Legislature for the purpose of securing exceptional advantages for British at the expense of Indian trade. The suggestion is without foundation but can be countered only by clear proposals which will show how false it is. On the other hand statements of a very disturbing character have been made from time to time by influential persons in India which have aroused suspicion

[1] *Infra*, paragraphs 329B to 346

and doubts in the United Kingdom. In these circumstances, appropriate provisions in the Constitution Act may serve the double purpose of facilitating the transition from the old to new conditions, and of reassuring sensitive opinion in both countries. Certainly, such provisions would in no way imply a belief that there is real ground for the apprehensions entertained on either side.")

The same are agreed to.

New paragraphs 326 and 327 are again read.

The further consideration of paragraphs 326 and 327 is postponed.

Paragraphs 328 to 330 are again read.

It is moved by Mr. Cocks and Mr. Morgan Jones: Page 181, line 22, to page 182, line 38, to leave out from the beginning of line 22, page 181, to the end of paragraph 330 on page 182 and to insert:

("without any interference from Whitehall on any matters on which
"the Government of India and the Indian Legislature are in agreement—
"since the inauguration of the present Constitution in 1921.

"This followed on the Report of the Joint Committee of both Houses
"of Parliament of 17th November, 1919. Paragraph 33 of that Report
"said *inter alia* that:

'Nothing is more likely to endanger the good relations between
'India and Great Britain than a belief that India's fiscal policy is
'dictated from Whitehall in the interests of the trade and commerce
'of Great Britain. That such a belief exists at the moment there can
'be no doubt. That there ought to be no room for it in the future
'is equally clear.

'Whatever be the right fiscal policy for India, for the needs of her
'consumers as well as for her manufacturers, it is quite clear that she
'should have the same liberty to consider her interests as Great Britain,
Australia, New Zealand, Canada and South Africa.'

'His Majesty's Government accepted this recommendation and it
"was intimated to the Government of India by the Secretary of State on
"30th June, 1921. The Statutory Commission in their Report quote
"the statement made by the Secretary of State in March, 1921, that:—

'After the Report by an authoritative Committee of both Houses
'and Lord Curzon's promise in the House of Lords, it was absolutely
'impossible for me to interfere with the right which I believe was wisely
'given and which I am determined to maintain—to give to the Government of India the right to consider the interests of India first, just as we, without any complaint from any other parts of the Empire, and the other parts of the Empire, without any complaint from us, have
'always chosen the tariff arrangements which they think best fitted for
'their needs, thinking of their own citizens first.'[1]

'In the course of his evidence before us Sir Charles Innes, who,
"before taking up his duties as Governor of Burma, was on the Council
"of the Governor-General of India as Commerce Member, said in regard
"to India's attitude to the Ottawa agreements:

'I think it was mainly due to the fact that the Indians realized
'that it was for themselves to decide whether or not they would ratify
'that agreement. In the old days, before we introduced this principle
of discriminating protection, every Indian thought that Britain kept
'India a free trade country in the interest of her own trade. When the
'Fiscal Convention was introduced and when we passed a Resolution
'in favour of discriminating protection and the first Steel Bill was
'passed, we at once transferred all that from the political sphere to
the economic sphere, and in recent years in the Indian Legislative
'Assembly more and more we have been creating a strong Free Trade
'Party. It was getting more and more difficult for us to pass Protection
'Bills. I think that is all to the good; it shows the value of responsi-
'bility, and I am perfectly sure that if we had not taken that action,

[1] Vol. I, p. 356, para. 402.

'you would never have got the Indian to agree to the British preference
'on steel, or to the Ottawa agreement, and it seems to me a very good
'example of the stimulating effect of responsibility'

"We realize the importance of giving full weight to this evidence on
"the value of placing responsibility on the Indian Legislature, coming as
"it does from one who is in a position to speak with authority

"The Statutory Commission further point out that —

"An understanding analogous to the fiscal convention has been 'arrived at in one other region The Secretary of State has relinquished his control of policy in the matter of the purchase of Government stores for India, other than military stores The Governments in India, in agreement with the legislatures, are now free to buy stores in India in this country, or abroad as seems best to them, and the Secretary of State, though he is by statute responsible to Parliament, 'has undertaken not to intervene'

'There is much force in Mr Baldwin's words —

'All the safeguards are being examined by the Joint Select Com'mittee, but whatever safeguards we have the real safeguard is the 'maintenance of goodwill If there is not a basis of goodwill, your 'trade will eventually wither away, and I regret to say that some of the 'measures which have been suggested and which Lancashire people 'have been asked to support, have, in my judgment, been calculated to 'destroy rather than to further any possibility of that goodwill between 'Lancashire and India which we can get, which we ought to get, and 'which we cannot do without

'The boycott has died away by a conviction in the minds of the Indians themselves that we were going to deal honourably with them and keep our word about getting on with the reforms[1]'

The same idea is expressed in the Memorandum submitted to us by 'Sir Tej Bahadur Sapru

The best safeguard that Lancashire or for the matter of that England can have for trade and commerce in India is the good will of the people of India

We think therefore that the time has now come to recognize in the 'Constitution Act the right and the responsibility of India to settle her own fiscal affairs as freely as and on a basis of equality with Great Britain and the Dominions

We agree with the British Indian delegates in their Memorandum submitted to us, that the question of Commercial Discrimination might 'be left to the commercial interests in India and England who would doubtless be able to evolve a friendly settlement by negotiation Failing 'that we agree that it might be provided in the Constitution Act that anything of the nature of discriminatory legislation should require the previous assent of the Governor General given in his discretion We "think that the formula proposed by the Indian Delegates should be 'adopted, namely, that the Governor General should not be entitled to refuse his assent unless he is assured that the object of the legislation is, 'in the words of the Montagu Chelmsford Report, not so much to "promote Indian commerce, as to injure British commerce,' or, as "proposed by the Statutory Commission, in order to prevent serious "prejudice to one or more sections of the community as compared with "other sections)

Objected to

[1] Vol I, p 356, para 402

[2] Record No 10, p 256, para 42 (Vol III, Session 1932 33)

On Question :—

Contents (2).	Not Contents (23).
Mr. Cocks.	Lord Archbishop of Canterbury.
Mr. Morgan Jones.	Marquess of Salisbury.
	Marquess of Zetland.
	Marquess of Linlithgow.
	Earl of Derby.
	Earl of Lytton.
	Earl Peel.
	Viscount Halifax.
	Lord Middleton.
	Lord Hardinge of Penshurst.
	Lord Rankeillour.
	Lord Hutchison of Montrose.
	Mr. Butler.
	Major Cadogan.
	Sir Austen Chamberlain.
	Sir Reginald Craddock.
	Mr. Davidson.
	Mr. Foot.
	Sir Samuel Hoare.
	Sir Joseph Nall.
	Lord Eustace Percy.
	Sir John Wardlaw-Milne.
	Earl Winterton.

The said amendment is disagreed to.

It is moved by the Lord Eustace Percy. Pages 181 and 182 to leave out paragraphs 328 and 329 and to insert the following new paragraphs :—

("328. But in making our recommendations to this end, we wish to make it clear at the outset that we contemplate no measure which would interfere with the position attained by India as an integral part of the British Empire, through the Fiscal Convention. Fears have, indeed, been expressed lest the exercise of powers by the Indian Legislature which the Convention contemplated might result in the imposition of penal tariffs on British goods or in the application to them of penalty restrictive regulations with the object not of fostering Indian trade, but of injuring and excluding British trade. The answer to these fears is that the Convention could never, in fact, have been applied in aid of such a policy ; and we have been assured by the Indian Delegates that there will be no desire in India to utilise any powers they may enjoy under the new Constitution for a purpose so destructive of the conception of partnership upon which all our recommendations are based. But, if this be so, it would be clearly of great advantage to allay the fears of which we have spoken by a declaration through and under the Constitution Act of the principles governing the relations between the two countries. The machinery of the Governor-General's special responsibilities, supplemented by his Instrument of Instructions, offers India and the United Kingdom the opportunity of making such a declaration of principles, while at the same time ensuring the necessary flexibility in their interpretation and application. **The Fiscal Convention and the new Constitution.**

"329. We therefore recommend that to the special responsibilities of the Governor-General enumerated in the White Paper there should be added a further special responsibility defined in some such terms as follows :—'The prevention of measures, legislative or administrative, which would subject British goods, imported into India from the United Kingdom, to discriminatory or penal treatment'. But, as it is important **Governor General should have a special responsibility to prevent penal discrimination against British imports.**

that the scope which we intend to be attached to the special responsibility so defined should be explained more exactly than could conveniently be expressed in statutory language, we further recommend that the Governor-General's Instrument of Instructions should give him full and clear guidance. It should be made clear that the imposition of this special responsibility upon the Governor-General is not intended to affect the competence of his Government and of the Indian Legislature to develop their own fiscal and economic policy; that they will possess complete freedom to negotiate agreements with the United Kingdom or other countries for the securing of mutual tariff concessions; and that it will be his duty to intervene in tariff policy or in the negotiation or variation of tariff agreements only if, in his opinion, the intention of the policy contemplated is to subject trade between the United Kingdom and India to restrictions conceived not in the economic interests of India but with the object of injuring the interest of the United Kingdom. It should further be made clear that the 'discriminatory or penal treatment' covered by this special responsibility includes both direct discrimination (whether by means of differential tariff rates or by means of differential restrictions on imports) and indirect discrimination by means of differential treatment of various types of products; and that the Governor-General's special responsibility could also be used to prevent the imposition of prohibitory tariffs or restrictions, if he were satisfied that such measures were proposed with the intention already described. In all these respects, the words would cover measures which though not discriminatory or penal in form, would be so in fact.

Principles of future trade relations between India and United Kingdom.

" 329A. But although the Instrument of Instructions affords the means of defining more fully than would be possible in the Act itself the scope and purpose of the special responsibility which the Act should confer, even this document cannot conveniently be utilised as the means of explaining the broad principles upon which in our view, the future trade relations between India and the United Kingdom should be based. We wish therefore to express our own conception of these principles. We think that the United Kingdom and India must approach their trade problems in a spirit of reciprocity, which views the trade between the two countries as a whole. Both countries have a wide range of needs and interests; in some of these each country is complementary to the other, while in some each has inevitably to look rather to a third country for satisfactory arrangements of mutual advantage. The reciprocity which, as partners, they have a right to expect from each other consists in a deliberate effort to expand the whole range of their trade with each other to the fullest possible extent compatible with the interests of their own people. The conception of reciprocity does not preclude either partner from entering into special agreements with third countries for the exchange of particular commodities where such agreements offer it advantages which it cannot obtain from the other; but the conception does imply that, when either partner is considering to what extent it can offer special advantages of this kind to a third country without injustice to the other partner it will have regard to the general range of benefits secured to it by the partnership, and not merely to the usefulness of the partne ship in relation to the particular commodity under consideration at the moment.

Discrimination against British trade in India.

" 329B. We turn now to the other issue presented by this section of our Report, namely, the prevention of discrimination against British trade in India. The Second Round Table Conference in 1931 adopted a resolution to the effect that there should be no discrimination between the rights of the British mercantile community, firms and companies, trading in India and the rights of Indian-born subjects. Witnesses who appeared before us spoke in the same sense and the British Indian Delegation, in their joint memorandum, state that on the question of principle there has

always been a substantial measure of agreement in India On the other hand, we have been assured no less strongly by those who represent British commercial interests that they ask for no exceptional or preferential treatment for British trade as against Indian trade Their policy is, in fact, one of a fair field and no favour The question therefore resolves itself into a consideration of the best method of giving practical effect to the avowed policy and intentions of all concerned It may, indeed be asked why in view of the assurance of which we have spoken, it is necessary to deal with this matter at all in the Constitution Act, and to this our answer must be that here again utterances have been made which could not fail to give rise to suspicions and doubts and that statutory provision by way of reassurance is an evident necessity

329C Discrimination may be of two kinds administrative or legislative We are satisfied that with regard to administrative discrimination a statutory prohibition would be not only impracticable but useless for it would be impossible to regulate by any statute the exercise of its discretion by the Executive We agree however with the proposal in the White Paper[1] that the Governor General and Governors in their respective spheres should have imposed upon them a special responsibility for the prevention of discrimination thus enabling them if action is proposed by their Ministers which would have a discriminatory effect to intervene and if necessary either to decline to accept their advice or (if the case may require) to exercise the special powers which flow from the possession of a special responsibility But if our subsequent recommendations on the subject of legislative discrimination are accepted we think it should be made clear in the Constitution Act that this special responsibility extends to the prevention of administrative discrimination in any of the matters in respect of which provision against legislative discrimination is made under the Act) **Administrative discrimination.**

The same is agreed to

New Paragraphs 328 and 329 are again read and amended

The further consideration of paragraphs 328 and 329 is postponed

Paragraph 330 is again read and postponed

Paragraph 331 is again read

It is moved by Sir John Wardlaw Milne Page 183 line 2 after (dominions) to insert (These must be settled by mutual agreement, when the position of those persons and companies of Dominion origin already engaged in professions or trade in India will no doubt be specially considered)

The amendment by leave of the Committee is withdrawn

Paragraph 331 is again read

The further consideration of paragraph 331 is postponed

Paragraph 332 is again read

It is moved by Mr Morgan Jones Mr Cocks and Mr Attlee Page 183 lines 10 to 12 to leave out from ((1)) in line 10 to (but) in line 12 and to insert (that the consent of the Governor General given in his discretion " should be required to the introduction in the Federal Legislature and the " Provincial Legislature of any measure of the discriminatory nature set " out in Proposals 122 and 123 of the White Paper)

The same is disagreed to

It is moved by Mr Morgan Jones Mr Cocks and Mr Attlee Page 183 lines 15 to 21 to leave out from (elsewhere) in line 15 to the end of the paragraph

The same is disagreed to

Paragraph 332 is again read

The further consideration of paragraph 332 is postponed

[1] White Paper, Proposals 18 and 70

Paragraph 333 is again read.

It is moved by Mr. Morgan Jones, Mr. Attlee and Mr. Cocks. Page 183, to leave out paragraph 333.

The same is disagreed to

Paragraph 333 is again read

The further consideration of paragraph 333 is postponed.

Paragraph 334 is again read and postponed

Paragraph 335 is again read

It is moved by Sir John Wardlaw Milne Page 184, line 2, to leave out ("might") and to insert ("should")

The same is agreed to

It is moved by Sir John Wardlaw Milne Page 184 line 3 to leave out ("should not") and to insert ("are not to")

The same is agreed to

It is moved by Mr Cocks and Mr Morgan Jones Page 184 line 6 at the end to insert ("except in the case of coastal trade where we feel that it would be a sufficient safeguard against unfair discrimination if the previous consent of the Governor General were required to any such legislation").

Objected to

On Question

Contents (2)	Not Contents (21).
Mr Cocks	Lord Archbishop of Canterbury
Mr. Morgan Jones	Marquess of Salisbury
	Marquess of Zetland
	Marquess of Linlithgow
	Earl of Derby
	Earl Peel
	Lord Middleton
	Lord Ker (M Lothian)
	Lord Hardinge of Penshurst
	Lord Rankeillour
	Lord Hutchison of Montrose
	Mr Butler
	Major Cadogan
	Sir Austen Chamberlain
	Sir Reginald Craddock
	Mr Davidson
	Sir Samuel Hoare
	Sir Joseph Nall
	Lord Eustace Percy
	Sir John Wardlaw-Milne
	Earl Winterton

The said amendment is disagreed to

Paragraph 335 is again read as amended

The further consideration of paragraph 335 is postponed

Paragraph 336 is again read

It is moved by Sir Joseph Nall and the Earl of Derby. Page 184, paragraph 336, lines 11 to 19, to leave out from ("India;") in line 11 to the end of the paragraph.

The same is agreed to.

Paragraph 336 is again read, as amended.

The further consideration of paragraph 336 is postponed.

Paragraph 337 is again read.

It is moved by Sir John Wardlaw-Milne. Page 184, lines 31 to 34, to leave out from (" drawn ") in line 31 to (" subsequently ") in line 34 and to insert ("on the one hand, between firms or companies, whether domiciled or regis- " tered in India or in the United Kingdom, which at the date of the Act " authorising the grant are already engaged in India in the branch of trade or " industry which it is sought to encourage or which subsequent to the passing " of the Act acquire a business in India previously so engaged and, on the other " hand, those firms or companies which desire to engage in that branch of " trade or industry ")

The amendment, by leave of the Committee, is withdrawn.

It is moved by Sir John Wardlaw Milne Page 184, line 39, after (" as ") to insert (" the character of the enterprise will allow and ")

The amendment, by leave of the Committee, is withdrawn

It is moved by Sir John Wardlaw Milne Lines 39 to 41, to leave out from (" former ") in line 39 to (" the ") in line 41.

The amendment, by leave of the Committee, is withdrawn

Paragraph 337 is again read

The further consideration of paragraph 337 is postponed.

Paragraph 338 is again read

It is moved by Mr Cocks, Mr Attlee and Mr Morgan Jones. Pages 184 and 185, to leave out paragraph 338

Objected to.

On Question.

Contents (3)	Not Contents (17).
Mr. Attlee.	Marquess of Salisbury.
Mr. Cocks.	Marquess of Zetland.
Mr. Morgan Jones.	Marquess of Linlithgow.
	Earl of Derby
	Lord Middleton.
	Lord Ker (M Lothian).
	Lord Rankeillour
	Lord Hutchison of Montrose.
	Mr. Butler.
	Major Cadogan
	Sir Austen Chamberlain.
	Sir Reginald Craddock.
	Mr Davidson.
	Sir Samuel Hoare.
	Sir Joseph Nall.
	Lord Eustace Percy.
	Sir John Wardlaw-Milne.

The Earl Winterton did not vote.

The said amendment is disagreed to.

Paragraph 338 is again read.

The further consideration of paragraph 338 is postponed.

Paragraphs 339 to 345 are again read and postponed.

Paragraph 346 is again read.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 190, line 32, at the end to insert ("The same principle should apply to members of the "R.A.M.C. and of the R.A.F. Medical Service.")

The same is agreed to.

Paragraph 346 is again read as amended.

The further consideration of paragraph 346 is postponed.

Paragraphs 347 to 453 are again postponed.

Ordered, that the Committee be adjourned till to-morrow at half-past Ten o'clock.

Die Martis 24° Julii, 1934

Present :

LORD ARCHBISHOP OF CANTERBURY.
MARQUESS OF SALISBURY.
MARQUESS OF ZETLAND.
MARQUESS OF LINLITHGOW.
MARQUESS OF READING.
EARL OF DERBY
EARL PEEL.
VISCOUNT HALIFAX.
LORD MIDDLETON
LORD KERR (M. LOTHIAN).
LORD HARDINGE OF PENSHURST
LORD RANKEILLOUR
LORD HUTCHISON OF MONTROSE

MR. BUTLER.
MAJOR CADOGAN,
SIR AUSTEN CHAMBERLAIN.
SIR REGINALD CRADDOCK.
MR. DAVIDSON.
MR. FOOT
SIR SAMUEL HOARE.
MR. MORGAN JONES.
LORD EUSTACE PERCY
SIR JOHN WARDLAW MILNE.
EARL WINTERTON.

THE MARQUESS OF LINLITHGOW in the Chair.

The Order of Adjournment is read
The Proceedings of yesterday are read.
Paragraphs 1 to 56 are again postponed.
Paragraph 57 is again read
It is moved by the Lord Eustace Percy Page 27, lines 38 and 39, to leave out from ("Province") in line 38 to ("in") in line 39 and to insert ("The "alternative of a union between Sind and the Punjab has long been discussed, "and there are very strong arguments in favour of it, especially in view of the "joint interest of the two territories in the waters of the Indus. Unfortu-"nately, this alternative now seems to be opposed by practically all sections "of opinion concerned On a review of all the factors in the problem, we have "reached the conclusion that the constitution of Sind as a separate Governor's "Province is the best solution possible in present circumstances.")
The same is agreed to.
Paragraph 57 is again read, as amended.
The further consideration of paragraph 57 is postponed.
Paragraphs 58 to 75 are again postponed.
Paragraph 76 is again read
It is moved by Sir Samuel Hoare and Mr Butler. Page 36, line 25, after ("word") to insert ("Nevertheless to prevent misunderstanding, we recom-"mend that the Instruments of Instructions should make this plain, and "further that this special responsibility is not intended to enable the Governor "to stand in the way of social or economic reform merely because it is resisted "by a group of persons who might claim to be regarded as a minority").
The same is agreed to.
Paragraph 76 is again read as amended
The further consideration of paragraph 76 is postponed.
Paragraphs 77 to 121 are again postponed
It is moved by Mr. Butler and Sir Samuel Hoare. Page 60, after paragraph 121 to insert the following new paragraph: —

("121A. We have given careful consideration in this connexion to the number of seats to be allotted to special interests and in particular to representations submitted to us in favour of a substantial increase in the number of seats to be allotted to Labour in the new Provincial Legislatures. Any material alteration in the number of seats allotted to special **Special interests seats.**

All amendments are to the Draft Report (*vide infra*, paras 1—42B, pp 470—491; and *vide supra* paras 43—153, pp. 64—253) and NOT to the Report as published (Vol 1, Part 1)

A Key is attached (see pp 521—544), showing on which pages of the Proceedings amendments to each paragraph can be found.

interests would inevitably involve a reopening of the Communal Award, and we have indicated above the objections to be seen to this. But we are in any case of opinion that the representation proposed in the White Paper for landlords, commerce and industry, universities and labour may be regarded as striking a just balance between the claims of the various interests, and as affording an adequate representation for them. We observe in particular that the representation of labour has been increased from 9 seats in the present Provincial Legislative Councils to a total of 38, the present marked difference between the representation of labour and of commerce and industry being thus very substantially reduced. Having regard to this, to the large number of seats set aside for the Depressed Classes (whose representatives will to some extent at any rate represent labour interests) and to the extension of the franchise, which will bring on the electoral roll large numbers of the poorer and of the labouring classes, we are of opinion that the position of labour, the importance of which we fully recognise, is adequately safeguarded under the proposals embodied in the White Paper.")

The same is agreed to.

New paragraph 121A is again read.

The further consideration of paragraph 121A is postponed.

Paragraphs 122 to 173 are again postponed.

Paragraph 174 is again read.

It is moved by Sir Samuel Hoare and Mr Butler Page 88, line 15, to leave out ("Federal or Provincial—")

The same is agreed to.

It is moved by Sir Samuel Hoare and Mr Butler Page 88, lines 23–25, to leave out from ("suggest") in line 23 to ("but") in line 25 and to insert ("a statutory Committee of Indian Defence constituted on the lines of the "Committee of Imperial Defence").

The same is agreed to.

It is moved by Sir Samuel Hoare and Mr Butler Page 88, line 27, to leave out ("that very fact") and to insert ("the elasticity of its constitution").

The same is agreed to.

It is moved by Sir Samuel Hoare and Mr Butler Page 88 line 30 to leave out ("A consultative body established") and to insert ("An advisory body "constituted").

The same is agreed to.

It is moved by Sir Samuel Hoare and Mr Butler Page 88 line 30, after ("body") to insert ("similar to the Committee of Imperial Defence").

The same is agreed to.

Paragraph 174 is again read as amended.

The further consideration of paragraph 174 is postponed.

It is moved by Sir Samuel Hoare and Mr Butler Page 88 after paragraph 174, to insert the following new paragraph:

("174A. In this connexion the question has also been raised of establishing a Standing Defence Committee of the Legislature. While we are not unmindful of the advantages of taking steps in this way to build up an informed opinion on Defence matters in the Legislature, we consider that the question is pre-eminently one to be settled by the Federal Legislature itself, and this principle should, in our view, apply generally to all proposals for establishing Standing Committees in connexion with various fields of administration.")

The amendment, by leave of the Committee, is withdrawn.

Paragraphs 175 to 187 are again postponed.

Paragraphs 188 to 193 are again considered.

It is moved by the Lord Eustace Percy. Pages 94 to 98, to leave out paragraphs 188—193 inclusive and to insert the following new paragraphs :—

(" 188. We have considered in an earlier part of our Report the problem of the relations between the Executive and the Legislature of a Province, and those remarks apply *mutatis mutandis* to the relations between the Federal Executive and Legislature. It is only necessary here to refer briefly to two special complications which are introduced into the Federal problem : the existence of the Governor-General's Reserved Departments and the question of the representation of the States in the Ministry. On the first point, we have already spoken frankly of the difficulties presented by a system of dyarchy. We can only repeat that, faced by a choice in which every conceivable alternative involves some division of responsibility and some danger of friction, we recommend the alternative which draws the line of division at Defence and Foreign Affairs as corresponding most nearly with the realities of the situation ; that, of these, the crucial question, so far as the Legislature is concerned, is Defence ; and that on this question we regard an All-India Federation as the best means of ensuring that the Central Legislature, while discharging its legitimate function of discussion and criticism, will not (in the phrase of the Statutory Commission) seek 'to magnify its functions in the reserved field '. The difficulties of Dyarchy at the Centre;

" 189. On the second point, it will be observed that, under the White Paper proposals, the Governor-General is to be directed by his Instrument of Instructions to include, ' so far as possible ', in his Ministry, not only members of important minority communities, but also representatives of the States which accede to the Federation. It may be thought that this proposal runs the risk of adding to the possible dangers of communal representation in the Ministry, to which we have referred in speaking of the Provinces, the further dangers of territorial representation. We can scarcely doubt that State representation will always be regarded by the States themselves as an essential element in every Administration, and this fact may be thought likely to retard the growth of political parties, in the true sense, even more at the Centre than in the Provinces ; for the Federal Legislature, though intended to be representative of India as a whole, will itself be largely based, in any case, on communal representation. In these circumstances, we do not overlook the possibility that, in place of an executive which propounds, and a legislature which deliberates upon, a national policy, there may be found two bodies each tending to become, in a classic phrase, ' a congress of ambassadors from different and hostile interests, which interests each must maintain as an advocate and agent against other agents and advocates.' This, however, is a common feature of all Federations. Few, if any, have in practice found it possible to constitute an Executive into which an element of territorial representation does not in some sense enter, and in the Swiss constitution the principle of such representation is explicitly laid down ; so that to advance this as an argument against the White Paper proposals would be, in effect, to reject an All-India Federation even as an ultimate ideal. Moreover, the limitation of the functions of the Federal Executive to matters of essentially All-India interest is calculated to minimise the dangers of both communal and territorial representation. Tariffs and excise duties, currency and transport are national, not communal questions ; and it is not unreasonable to assume that any clash of interest with regard to them will tend in future to have an economic rather than a communal origin. There will, therefore, be centripetal as well as centrifugal forces ; and it seems to us indeed conceivable that, until the advent of a new and hitherto unknown alignment of parties, a central Executive such as we have described may even come to function, as we and of composite nature of executive.

believe that the Executive of the Swiss Confederation functions, as a kind of business committee of the Legislature.")

Objected to.

On Question :-

Contents (18).	Not Contents (4).
Lord Archbishop of Canterbury.	Marquess of Salisbury.
Marquess of Zetland.	Lord Middleton.
Marquess of Linlithgow.	Lord Rankeillour.
Marquess of Reading.	Sir Reginald Craddock.
Earl of Derby.	
Earl Peel.	
Viscount Halifax.	
Lord Ker (M. Lothian).	
Lord Hardinge of Penshurst	
Lord Hutchison of Montrose	
Mr. Butler	
Major Cadogan.	
Sir Austen Chamberlain.	
Mr. Davidson.	
Sir Samuel Hoare.	
Lord Eustace Percy	
Sir John Wardlaw-Milne	
Earl Winterton.	

Mr. Morgan Jones did not vote.

The said amendment is agreed to.

New paragraphs 188 and 189 are again read.

The further consideration of paragraphs 188 and 189 is postponed.

Paragraphs 194 to 206 are again postponed.

Paragraph 207 is again read.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 104, line 10, after (" population.") to insert (" We have been given to understand that, while " susceptible of minor adjustment in a few particulars, the scheme has met " with a large measure of support among the States.")

The same is agreed to.

Paragraph 207 is again read, as amended.

The further consideration of paragraph 207 is postponed.

Paragraphs 208 to 214 are again postponed.

Paragraph 215 is again read

It is moved by the Marquess of Linlithgow. Page 107, line 13, to leave out (" Money Bills "); line 15, after (" responsibilities,") to insert ("or would " affect the financing of the Federal Government's requirements ").

The same are agreed to.

Paragraph 215 is again read, as amended.

The further consideration of paragraph 215 is postponed.

Paragraphs 216 to 218 are again postponed.

Paragraph 219 is again read.

It is moved by the Lord Eustace Percy. Page 109, to leave out paragraph 219 as amended and to insert the following new paragraph :—

Distinction between legislation in the exclusive and concurrent fields.

(" 219. We are of opinion that the proposals in the White Paper on this subject require modification in two directions. In the first place, the White Paper draws no distinction between the execution of Federal Acts with respect to subjects on which the Federal Legislature is alone competent to legislate (List 1) and the execution of Federal Acts in the

concurrent field (List III). It is evident that in its exclusive filed the Federal Government ought to have power to give directions—detailed and specific if need be—to a provincial Government as proposed in the White Paper. But it is much more doubtful whether it should have such power in the concurrent field. The objects of legislation in this field will be predominantly matters of provincial concern, and the agency by which such legislation will be administered will be almost exclusively a provincial agency. The Federal Legislature will be generally used as an instrument of legislation in this field merely from considerations of practical convenience, and, if this procedure were to carry with it automatically an extension of the scope of federal administration, the Provinces might feel that they were exposed to dangerous encroachment. On the other hand, the considerations of practical convenience which would prompt the use of the Federal Legislature in this field will often be the need for securing uniformity in matters of social legislation and uniformity of legislation will be useless if there is no means of enforcing reasonable uniformity of administration. We think the solution is to be found in drawing a distinction between subjects in the concurrent list which, on the one hand, relate, broadly speaking, to matters of social and economic legislation, and those which, on the other hand, relate mainly to matters of law and order, and personal rights and status. The latter form the larger class, and the enforcement of legislation on these subjects would, for the most part, be in the hands of the Courts or of the provincial authorities responsible for public prosecutions. There can clearly be no question of Federal directions being issued to the Courts, nor could such directions properly be issued to prosecuting authorities in the Provinces. In these matters, therefore, we think that the Federal Government should have in law, as they could have in practice, no powers of administrative control. The other class of concurrent subjects consists mainly of the regulation of mines, factories, employers' liability and workmen's compensation, trade unions, welfare of labour, industrial disputes, infectious diseases, electricity, and cinematograph films. In respect of this class, we think that the Federal Government should, where necessary, have the power to issue general directions for the enforcement of the law, but only to the extent provided by the Federal Act in question. In view of the manner in which we propose to constitute the Federal Legislature, it is improbable that a body so representative of provincial opinion will sanction any unreasonable encroachment upon the provincial field of action; but, as a further safeguard against such encroachment, we think that any clause in a statute conferring such powers should require the previous sanction of the Governor General.")

The same is agreed to.

Now paragraph 219 is again read.

The further consideration of paragraph 219 is postponed.

Paragraphs 220 to 244 are again postponed.

Paragraph 245 is again read.

It is moved by the Lord Eustace Percy. Page 147, lines 7 to 13, to leave out from the beginning of the paragraph to the end of line 13, and to insert ("The Provincial claim to income tax has been given added impetus by the "attitude of the States in the matter of direct taxation. The entry of the "States into the Federation removes, indeed, one very serious problem.")

The same is agreed to.

Paragraph 245 is again read, as amended.

The further consideration of paragraph 245 is postponed.

Paragraphs 246 to 280 are again postponed.

Paragraph 281 is again read.

It is moved by the Lord Eustace Percy and Major Cadogan. Page 160, line 35, after ("further") to insert ("special"), and after ("required") to insert ("for members of the Secretary of State's services").

The same are agreed to.

It is moved by the Lord Eustace Percy and Major Cadogan. Page 160, line 36 after ("in") to insert ("the insertion of a special provision").

The same is agreed to

Paragraph 281 is again read as amended.

The further consideration of paragraph 281 is postponed.

Paragraph 283 is again read

It is moved by The Lord Eustace Percy and Major Cadogan Page 161, to leave out paragraph 283 and to insert the following new paragraphs:

Status of Public Services.

("286 While we consider that the White Paper provides adequately for the special protection of members of the Secretary of State's Services, we are not fully satisfied that the status of other members of the Public Services, and of those Services as a whole, has been made sufficiently clear either in the White Paper or in any of the investigations and discussions which have led up to its preparation We have already discussed in paragraph 89 the measures necessary to safeguard the *moral* and efficiency of the Police Service, including its subordinate ranks. In paragraphs 321-325 we shall make certain special proposals in regard to judicial appointments. In addition, however, to these special recommendations, we think it our duty to make certain general observations on the future of the Public Services as a whole.

All India, Central and Provincial Services are all Crown Services.

"283-A It is natural that the process by which, during recent years, provincial service officers have been gradually substituted for All-India officers in the transferred departments and greater powers of control have been delegated to the Provincial Governments should have tended to create a false distinction between the status of the All-India Services and that of the Provincial Services. The tendency has almost inevitably been to regard the Provincial Services as having ceased to be Crown Services, and as having become Services of the Provincial Governments. This tendency has been emphasised by the argument, frequently advanced and accepted in the past both by Indians and Englishmen, that Provincial self-government necessarily entails control by the Provincial Government over the appointment of its servants. This argument has, no doubt, great logical force, but it runs the risk of distorting one of the accepted principles of the British Constitution, namely, that civil servants are the servants of the Crown, and that the Legislature should have no control over their appointment or promotion and only a very general control over their conditions of service. Indeed even the British Cabinet has come to exercise only a very limited control over the Services, control being left very largely to the Prime Minister as, so to speak, the personal adviser of the Crown in regard to all service matters. The same principle applies, of course, equally to the Services recruited by the Secretary of State for India, though this fact has been sometimes obscured by inaccurate reference to the control of Parliament over the All-India Services. But whatever misunderstandings may have arisen in the past as to the real status of the Provincial Services, there ought to be no doubt as to their status under the new Constitution. We have already pointed out that under that Constitution, all the powers of the Provincial Governments, including the power to recruit public servants and to regulate their conditions of service, will be derived, no longer by devolution from the Government of India, but directly by delegation from the Crown, *i.e.*, directly from the same source as that from which the Secretary of State derives his powers of recruitment. The Provincial Services, no

less than the Central Services and the Secretary of State's Services will, therefore, be essentially Crown Services, and the efficiency and moral of those Services will largely depend in the future on the development in India of the same conventions as have grown up in England.

"283B. But, if such conventions are to develop in India as in England, they must develop from the same starting-point, from a recognition that the Governor, as the personal representative of the Crown and the head of the executive government, has a special relation to all the Crown Services. He will, indeed, be generally bound to act in that relation on the advice of his Ministers, subject to his special responsibility for the rights and legitimate interests of the Services, but his Ministers will be no less bound to remember that advice on matters affecting the organisation of the permanent executive services is a very different thing from advice on matters of legislative policy, and that the difference may well affect both the circumstances and the form in which such advice is tendered. We think, therefore, that the Constitution should contain in its wording a definite recognition of the Governor-General and the Governors respectively as, under the Crown, the heads of the Central (as distinct from the All-India) and Provincial Services. Appointments to these Services would accordingly run in the name of the Governor-General and Governor respectively, and it would, therefore, follow (*see* paragraph 277 above) that no public servant appointed by the Governor-General or Governor will be subject to dismissal, save by order of the Governor-General or Governor.

Governor-General and Governors should be under the Crown, recognised as heads of Central and Provincial Services respectively.

"283C. But, further than this, it will, in our view, be essential that the Central and Provincial Legislatures respectively should give general legal sanction to the status and rights of the Central and Provincial Services. The Special responsibility of the Governor-General and Governors would, of course, in any case extend to securing the legitimate interests as well as the rights of members of these Services; but it is on all grounds desirable that the Executive Government as a whole should be authorised and required by law to give those Services the necessary security. The principal existing rights of members of these Services are set out in List II of Appendix VII of the White Paper. We think that the Legislatures, in passing Provincial Civil Service Acts authorising and requiring the Executive Government to give these services the necessary security, would be well advised to consider whether, to meet the new conditions, List II of Appendix VII of the White Paper should be enlarged by appropriate additions from List I of the same Appendix, wherein are set out the principal existing rights of officers appointed by the Secretary of State. In our view the status and rights of the Central and Provincial Services should not be, in substance, inferior to the status and rights of persons appointed by the Secretary of State in regard to the two main points covered by List I. These two points are, protection against individual injury amounting to breach of contract and against individual unfair treatment through disciplinary action or refusal of promotion; and, secondly, protection against such abritrary alterations in the organisation of the Services themselves as might damage the professional prospects of their members generally. On the first point, those Provincial Civil Service Acts could not, indeed, determine in detail the rates of pay, allowances and pensions, and the conditions of retirement of all Civil Servants, nor the procedure to be followed in considering their promotion on the one hand, or, on the other, their dismissal, removal, reduction or formal censure. Such Acts could, however, confer general powers and duties for these purposes on the Government, and in regard to promotions, they could provide definitely that "canvassing" for promotion or appointments shall disqualify the candidate, and that orders of posting or promotion in the higher grades shall require the personal concurrence of the Governor. On the second point, it is admittedly more difficult to give security to the Services as a whole in respect of their

Status and rights of Central and Provincial Services not to be inferior to those All India Services.

general organisation ; yet the *moral* of any Service must largely depend upon reasonable prospects of promotion, and this must mean that there is a recognised cadre of higher paid posts which, while naturally subject to modification in changing circumstances, will not be subject to violent and arbitrary disturbance. A Legislature does nothing derogatory to its own rights and powers if it confers upon the Executive by law the duty of fixing such cadres and of reporting to the Legislature if any post in the cadres is at any time held in abeyance.

Votability of salaries, etc., of Central and Provincial Services.

" 283D. There is, however, one existing right of officers appointed by the Secretary of State, the application of which, as it stands, to civil servants in general would be impossible, namely, the right to non-votability of salaries and pensions. There is, indeed, nothing derogatory again, to the rights and powers of the Legislature in the adoption of a special procedure similar to the Consolidated Fund Charges procedure of the British Parliament under which certain salaries are authorised by permanent statute instead of being voted annually on estimates of supply, and this is, in fact, generally recognised to be a desirable procedure in certain circumstances. But, as we point out below[1] in a slightly different connection, this procedure could not, in practice, be applied to the salaries of all public servants. We think, however, that it might well be applied by the Provincial Legislatures to certain classes of officers, and, in particular, to the higher grades of all the services. We make this proposal without prejudice to the proposals in the White Paper which provide that certain heads of expenditure shall not be submitted to the vote of the Provincial Legislatures at all.")

The same is agreed to.

New paragraphs 283, 283A, 283B, 283C, and 283D are again read.

The further consideration of paragraphs 283, 283A, 283B, 283C, and 283D is postponed.

Paragraphs 284 to 286 are again postponed.

Paragraph 287 is again read.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 163, line 40, to leave out (" the establishment of Provincial Autonomy ") and to insert (" the date when the new provincial Governments first take office ").

The same is agreed to.

It is moved by Sir Samuel Hoare and Mr Butler. Page 163, line 41, to leave out (" but where ") and to insert (" though it is unlikely that a revision " of the question of recruitment by the Secretary of State of officers employed " under the Federal Government will be appropriate until a later date. " Where ").

The same is agreed to.

It is moved by Sir Samuel Hoare and Mr Butler. Page 164, line 2, after (" experts, ") to insert (" The Constitution Act should, in our view, make " provision for enabling the present arrangements for recruitment and control " of the Indian Civil Service and Indian Police to be varied without an " amending Act, probably procedure by Order in Council, the draft of " which had been approved by both Houses of Parliament would be most " convenient ")

The same is agreed to.

Paragraph 287 is again read, as amended.

The further consideration of paragraph 287 is postponed.

Paragraphs 288 to 299 are again postponed.

It is moved by the Lord Eustace Percy and Major Cadogan. Page 168, after Paragraph 299 to insert the following new paragraph :

English personnel in Forest and Irrigation Services.

(" 299A. Our recommendation that the Forest and Irrigation Services should in future be recruited in India does not, of course, imply that the Governments in India should abandon the recruitment of necessary personnel from England. The High Commissioner for India in London

[1] *Infra*, para. 304.

already recruits specialist and expert officers of various kinds in England, as the agent of the competent authorities in India, and the Governments in India will doubtless continue this practice, or may for certain purposes make use of the Civil Service Commission ")

The same is agreed to

New paragraph 299A is again read

The further consideration of paragraph 299A is postponed

Paragraphs 300 to 305 are again postponed

Paragraph 306 is again read

It is moved by Sir Samuel Hoare and Mr Butler Page 170 line 27, to leave out (" only ") and to insert (" direct ")

The same is agreed to

It is moved by Sir Samuel Hoare and Mr Butler Page 170 line 32 at the end to insert (" Existing rights of suit against the Secretary of State will be " preserved ")

The same is agreed to

Paragraph 306 is again read as amended

The further consideration of paragraph 306 is postponed

Paragraph 307 is again postponed

Paragraph 308 is again read

It is moved by the Marquess of Linlithgow Page 171 lines 8 to 23 to leave out from (" Services ") in line 8 to the end of the paragraph and to insert (" and we have noted with satisfaction the resolution of the Home Department of the Government of India dated July 4th announcing new rules for the determination and improvement of the representation of minorities in the " Public Services In accordance with this resolution the claims of Anglo " Indians and domiciled Europeans who at present obtain rather more than 9 per cent of the Indian vacancies in the gazetted railway posts for which " recruitment is made on an All India basis will be considered when and if " their share falls below 9 per cent while 8 per cent of the railway subordinate " posts filled by direct recruitment will be reserved for Anglo Indians and " domiciled Europeans We are of opinion that a reference should be included " in the Instruments of Instructions of the Governor General and Governors " to the fact that the legitimate interests of minorities include their due " representation in the Public Services It would of course be incumbent " on the Governor General and Governors in the discharge of their special " responsibility for the legitimate interests of minorities to see that no change " was made in the percentages prescribed in the above mentioned resolution " without their approval ")

The same is agreed to

Paragraph 308 is again read as amended

The further consideration of paragraph 308 is postponed

Paragraphs 309 to 317 are again postponed

Paragraph 318 is again read

It is moved by Sir Samuel Hoare and Mr Butler Page 177 line 7, after (" fettered ") to insert (" We need hardly add that our acceptance of the " proposal to abrogate the statutory proportion so far as barristers " are concerned implies no doubt as to the necessity of continuing in the " interests of the maintenance of British legal traditions to recruit a reasonable " able proportion of barristers or advocates from the United Kingdom as " Judges of the High Courts ")

The same is agreed to

Paragraph 318 is again read, as amended

The further consideration of paragraph 318 is postponed

Paragraph 319 is again postponed

Paragraph 320 is again read.

It is moved by Sir Samuel Hoare and Mr. Butler, Page 177, line 45, to leave out (" it is for consideration whether ") and to insert (" We recommend that ").

The same is agreed to.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 177, line 46, to leave out (" not ").

The same is agreed to.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 177, line 50, at the end of the paragraph as amended, to insert (" We should add that in later "paragraphs we make recommendations which are designed to confirm and "strengthen the arrangements existing in many Provinces whereby the High "Courts are given a large measure of control over the personnel of the "Subordinate Judiciary; but we also think that provisions, settling definitely "the nature of the administrative superintendence to be exercised by the "High Courts over the Subordinate Courts in a Province, should find a place "in the new Constitution.")

The same is agreed to.

Paragraph 320 is again read, as amended.

The further consideration of paragraph 320 is postponed.

Paragraphs 321 to 349 are again postponed.

It is moved by Mr. Butler and Sir Samuel Hoare. Page 191, after paragraph 349B, to insert the following new paragraphs:—

Prior consent of Governor-General or Governor should be required to legislation affecting such grants.

(" 349B. It is not unnatural that the holders of privileges such as we have described should be apprehensive lest the grant of responsible government, and the consequent handing over to the control of Ministers and Legislatures of all matters connected with land revenue administration should result in a failure to observe the promises which have been extended by Governments in the past to themselves or their predecessors in interest. Some of the claims to protection which have been urged upon us in this connexion would be satisfied by little less than a statutory declaration which would have the effect of maintaining unaltered and unalterable for all time, however strong the justification for its modification might prove to be in the light of changed circumstances, every promise or undertaking of the kind made by the British Government in the past. We could not contemplate so far-reaching a limitation upon the natural consequences of the change to responsible government. We recommend, however, that the Constitution Act should contain an appropriate provision requiring the prior consent of the Governor-General or the Governor, as the case may be, to any proposal, legislative or executive, which would alter or prejudice the rights of the possessor of any privilege of the kind to which we have referred.")

The Permanent Settlement.

(" 349C. We have considered whether similar provision should be made to protect the rights of Zamindars and others who are the successors in interest of those in whose favour the Permanent Settlement of Bengal, Bihar and Orissa and Parts of the United Provinces and Madras was made at the end of the 18th century. Briefly, the effect of this Settlement was to give a proprietary right in land to the class described as Zamindars, on the understanding that they collected and paid to Government the revenue assessed on that land which was fixed at rates declared at the time to be intended to stand unaltered in perpetuity. It is apparent that the position of Zamindars under the Permanent Settlement is very different from that of the individual holders of grants or privileges of the kind we have just described; for, while the privileges of the latter might but for a protection such as we suggest, be swept away by a stroke of the pen with little or no injury to any but the holder of the vested interest himself, the alteration of the character of land revenue settlement in Bengal, for instance, would involve directly or indirectly the interests of vast numbers of the population in addition to those of the comparatively small number of Zamindars proper, and might indeed produce an

economic revolution of a most far-reaching character. Consequently, no Ministry or Legislature in Bengal could, in fact, embark upon, or at all events carry to a conclusion legislative proposals which would have such results unless they had behind them an overwhelming volume of public support. We do not dispute the fact that the declarations as to the permanence of the Settlement contained in the Regulations under which it was enacted could not have been departed from by the British Government so long as that Government was in effective control of land revenue. But we could not regard this fact as involving the conclusion that it must be placed beyond the legal competence of an Indian Ministry responsible to an Indian Legislature which is to be charged *inter alia* with the duty of regulating the land revenue system of the Province to alter the enactments embodying the Permanent Settlement, which enactments, despite the promises of permanence they contain are legally subject (like any other Indian enactment) to repeal or alteration. Nevertheless, we feel that the Permanent Settlement is not a matter for which, as the result of the introduction of Provincial Autonomy, His Majesty's Government can properly disclaim all responsibility. We recommend therefore that the Governor should be instructed to reserve for the signification of His Majesty's pleasure any Bill passed by the Legislature which would alter the character of the Permanent Settlement ")

The same are agreed to

New paragraphs 319B and 349C are again read.

The further consideration of paragraphs 319B and 349C is postponed.

Paragraphs 350 to 368 are again postponed.

Paragraph 369 is again read

It is moved by Sir Samuel Hoare and Mr Butler Page 201, line 23, after ("basis") to insert ("One point of importance does not seem to have been "made sufficiently clear by the Report of the Committee The powers "which the Governor General will possess of taking action in virtue of his "special responsibilities (including, of course, that relating to any matter "which affects the Reserved Departments) must extend to the giving of "directions to the Railway Authority Also his right in the event of a "breakdown of the Constitution to assume to himself the powers vested in "any Federal Authority must extend to the powers vested in the Railway "Authority")

The same is agreed to

It is moved by Sir Samuel Hoare and Mr. Butler. Page 201, line 24, to leave out ("also")

The same is agreed to

Paragraph 369 is again read as amended.

The further consideration of paragraph 369 is postponed.

Paragraph 370 is again read

It is moved by Sir Samuel Hoare and Mr Butler Page 201, lines 41 to 43, to leave out from ("(2)") to the end of the sub paragraph and to insert at end of the sub-paragraph as amended ("and the powers of the "Governor-General referred to above")

The same is agreed to.

Paragraph 370 is again read, as amended.

The further consideration of paragraph 370 is postponed.

Paragraph 371 is again postponed.

Paragraph 372 is again read

It is moved by Sir Samuel Hoare and Mr. Butler. Page 207, lines 26—33, to leave out from ("Council.") in line 26 to ("be") in line 33 and to insert

(" It is desirable both on grounds of economy and for other reasons that the " present centralised system of Audit and Accounts should be maintained, " and it is to be hoped that the Provinces will realise the advantages of such " a course. Nevertheless it would be difficult to withhold from an autonomous " Province the power of taking over its own Audit and Accounts if it desires " to do so, and we think that the Constitution must allow a Province to take " this step subject to the following conditions. Long notice should be given " of the change; a Provincial Chief Auditor should be appointed whose " position would be no less independent of the Executive than that of the " Auditor-General; a general form of accounts framed on the common basis " for all the Provinces should continue to ").

The same is agreed to.
Paragraph 372 is again read, as amended.
The further consideration of paragraph 372 is postponed.
Paragraphs 373 to 379 are again postponed.
Paragraph 380 is again read.

It is moved by Sir Samuel Hoare and Mr. Butler Page 212, lines 13 to 15, to leave out from (" us ") in line 13 to (" It ") in line 15, and to insert (" inap- " propriate that the appointment should be made by the Governor-General " acting solely on the advice of Federal Ministers. We recommend accord- " ingly that the appointment of High Commissioner should be made by " the Governor General in his discretion after consultation with his Ministers.")

The same is agreed to.
Paragraph 380 is again read, as amended.
The further consideration of paragraph 380 is postponed.
Paragraphs 381 to 453 are again postponed.
Paragraphs 1 to 42 are again read.

It is moved by the Marquess of Linlithgow. Pages 1 to 20, that the original paragraphs 1 to 42 be left out and that the following new paragraphs be considered in lieu of them. The new paragraphs are laid before the Committee and are read and are as follows.

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PART I

INTRODUCTION

The Statutory Commission's survey.

1. The conditions of the problem with the examination of which we have been entrusted are brilliantly described in the comprehensive survey which forms Volume I of the Report of the Statutory Commission. We are not aware that the accuracy of this survey has been impeached, and we are content to take it both as the starting point and the text book of our own investigation. Nor, indeed, could we do otherwise; for it would have been impossible for us in the time at our disposal to have accumulated and digested so vast a mass of fact and detail. We desire to place on record our deep obligation to the work of the Commission and our conviction that, if we had not had before us the fruits of their patient and exhaustive enquiries, we should scarcely have been able to enter upon, much less to complete within any measurable space of time, the task which Parliament has imposed upon us. Nevertheless, if the labours of the Commission have happily relieved us of the task of restating by way of introduction the conditions of the Indian problem, there are certain elements in it which must so sensibly affect the judgment which we are invited to form and the recommendations which it will be our duty to make that we may be permitted briefly to refer to them.

The peoples of India.

2. The sub-continent of India,[1] lying between the Himalayas and Cape Comorin, comprises an area of 1,570,000 square miles with a population now approaching 340,000,000. Of this area British India

[1] *i.e.*, excluding Burma: *see infra*, para. 45.

comprises about 820,000, and the Indian States 700,000, square miles, with populations of about 260,000,000 and 80,000,000 respectively. It is inhabited by many races and tribes, speaking over two hundred different languages or dialects, and often as distinct from one another in origin, tradition, and manner of life, as are the nations of Europe. Two-thirds of its inhabitants profess Hinduism in one form or another as their religion; over 77,000,000 are followers of Islam; and the difference between the two is not only one of religion in the stricter sense, but also of race, of law, and of culture. They may be said indeed to represent two distinct and separate civilisations. Hinduism is distinguished by the singular phenomenon of caste, which is the basis of its religious and social system and which, save in a very restricted field, remains impervious to the more liberal philosophies of the West; the religion of Islam on the other hand is based upon the conception of the equality of man. In addition to these two great communities, there is also to be found an infinite variety of other religions and sects, ranging from

1 i.e., excluding Burma: see *infra*, para 45.

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the simple beliefs of Animism to the mystical speculations of the Buddhist. The great majority of the people of India derive their living from the soil and practise for the most part a traditional and self-sufficing type of agriculture. The gross wealth of the country is very considerable, but owing to the vast number of its inhabitants the average standard of living is low and can scarcely be compared even with that of the more backward countries of Europe. Literacy is rare outside urban areas, and even in these the number of literates bears but a small proportion to the total population.

The Indian States.

3. In its political structure India is divided between British India and the Indian States. The latter are nearly 600 in number. They include 109 States, among them great States like Hyderabad, Mysore, Baroda, Kashmir, Gwalior and Travancore, the Rulers of which are entitled to a seat in the Chamber of Princes; 128 which are represented in the Chamber by 12 of their own order elected by themselves; and 327 Estates, Jagirs, and others which are only States in the sense that their territory, often consisting only of a few acres, does not form part of British India. The more important States within their own territories enjoy all the principal attributes of sovereignty, but their external relations are in the hands of the Paramount Power. The sovereignty of others is of a more restricted kind, and over others again the Paramount Power exercises in varying degrees an administrative control.

British India.

4. British India consists of nine Governors' Provinces (excluding Burma), together with certain other areas administered under the Government of India itself. The Governors' Provinces possess a considerable measure of executive and legislative independence; but over all of them the Government of India and the Central Legislature can exercise executive and legislative authority. In respect of certain matters, known as transferred subjects the Provincial Executives are responsible to their Legislatures; but the Governor-General in Council is independent of the Central Legislature and responsible only to the Secretary of State and through him to Parliament. An official *bloc* forms part of both the Central and Provincial Legislatures and in general acts in accordance with the wishes of the Governor-General and Provincial Governors respectively. British India is administered through a number of services, some of them all-India services, and some provincial. Of the former the most important is the Indian Civil Service, recruited by the Secretary of State.

Features of present constitution.

5. Such in the barest outline is the present constitutional structure of British India, into the details of which we shall have occasion to enter with more particularity when we deal with the specific proposals of the White Paper in their order. It will be seen that its main features are a Central Executive, responsible only to the Secretary of State and through him to Parliament; Provincial Executives exercising powers over a wide field, responsible in certain

matters but not in others to the Provincial Legislatures; and Central and Provincial Legislatures exercising the law-making power, but with no control over the Executive in one case and with only a limited control in the other. Yet notwithstanding the measure of devolution on the Provincial authorities which was the outcome of the Act of 1919, the Government of India is and remains in essence a unitary and centralised Government, with the Governor-General in Council as the keystone of the whole constitutional edifice; and it is through the Governor-General in Council that the Secretary of State and ultimately Parliament discharge their responsibilities for the peace, order and good government of India.

The British achievement.

6. British rule in India stands in no need of apologetics, but it is well to remember what its specific achievement has been. It has given to India that which throughout the centuries she has never possessed, a Government whose authority is unquestioned in any part of the sub-Continent; it has barred the way against the foreign invader and has maintained tranquillity at home; it has established the rule of law, and, by the creation of a just administration and an incorruptible magistracy, it has secured to every subject of His Majesty in British India the right to go in peace about his daily work and to retain for his own use the fruit of his labours. It is well, also, to remember how small is the British element in the administrative and judicial services which have been the chief agents of this work. The total European population of British India to-day including some 60,000 British troops, is only 135,000. The total British element in the Superior Services is about 3,150, and of these there are approximately 800 in the Indian Civil Service and 500 in the Indian Police.

The Mogul Empire.

7. The success of British Rule cannot be justly estimated without reference to the condition of things which preceded it. The arts of government and administration were not indeed unknown to Moguls, the and the strong hand of the Emperors who reigned between 1525 and 1707 maintained a State which ultimately embraced the larger part of India and did not suffer by comparison with, if it did not even surpass in splendour, the contemporary monarchies of Europe. But the strength of the Mogul Empire, depended essentially upon the personal qualities of its ruling House, and when the succession of great Emperors failed, its collapse inevitably followed; nor during its most magnificent period was its authority unchallenged either within or without its borders. Its system of government resembled that of other Asiatic despotisms. The interests of the subject races were made subservient to the ambitions, and often to the caprices, of the monarch; for the politic toleration of Akbar found no imitator among his successors. The imperial splendour became the measure of the people's poverty, and their sufferings are said by a French observer, long resident at the Court of Aurungzeb, to have been beyond the power of words to describe.

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The post Mogul Period.

8 There are pages in the history of India between the collapse of the Mogul Empire and the final establishment of British supremacy, which even to-day cannot be read without horror With but brief intervals of relief, vast tracts were given over to the internecine struggles of the princes, the guerilla warfare of petty chiefs and the exactions of Indian and European adventurers, and to townsmen and peasants alike the helpless victims of malice domestic foreign levy and (the whole apparatus of) anarchy, it might have seemed that the sum of human misery was complete It is in the improvement which has taken place in Indian agriculture since the establishment of peace and security that the Royal Commission in 1928 found a measure of the extent to which husbandry had been injured and its progress delayed by the long period of disorder and unrest that preceded the British occupation

Restoration of peace and order.

9 Such were the conditions out of which British rule created a new and stable polity not without the support and co-operation of Indians themselves Peace and order were re-established, the relations of the Indian States with one another and with the Crown were finally determined, and the rule of law made effective throughout the whole of British India On this solid foundation the majestic structure of the Government of India rests and it can be claimed with certainty that in the period which has elapsed since 1858 when the Crown assumed supremacy over all the territories of the East India Company the intellectual and material progress of India has been greater than it was ever within her power to achieve during any other period of her long and chequered history

Influence of British constitutional Ideas

10 We have emphasised the magnitude of the British achievement in India because it is this very achievement that has created the problem which we have been commissioned by Parliament to consider By transforming British India into a single unitary State it has engendered among Indians a sense of political unity By giving that State a Government disinterested enough to play the part of an impartial arbiter and powerful enough to control the disruptive forces generated by religious racial and linguistic divisions it has fostered the first beginnings at least of a sense of nationality transcending those divisions By establishing conditions in which the performance of the fundamental functions of government, the enforcement of law and order and the maintenance of an upright administration have come to be too easily accepted as a matter of course it has freed the mind of an acute and ingenious race to turn to other things and in particular to speculation upon the forms of government Finally by directing this speculation towards the object lessons of British constitutional history and by accustoming the Indian student of government to express his political ideas in the English language, it has favoured the growth of a body of opinion inspired by two familiar British conceptions that good government is not enough without self government, and that the only form of self government worthy of the name is

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government by Ministers responsible to an elected Legislature Indians, so trained and influenced have not been slow to observe that the Government of India has itself been one of the most significant examples of this principle of responsibility for its accountability to Parliament, so constantly insisted on by Englishmen of all schools of political thought, has given it a quality of

stability and permanence impossible of attainment otherwise under a system of personal rule.

Reality of Indian political aspirations.

11. The Indian problem cannot be understood unless the reality of these political aspirations is frankly recognised at the outset. There is ample evidence that enlightened Indian opinion has a very just appreciation of the benefits derived from the British connection, but the attachment of a people to its government is not always determined by a dispassionate calculation of material interest, still less by sentiments of mere gratitude. The subtle ferments of education, the impact of the War, and the beginnings of that sense of nationality to which we have referred have combined to create a public opinion in India which it would be a profound error for Parliament to ignore. It is true, of course, that those who entertain these aspirations constitute but a small fraction of the vast population of India and that, in these circumstances, alleged manifestations of public opinion are often of doubtful value. Nevertheless, a public opinion does exist, strong enough to affect what has been the main strength of the Government of India for many generations — its instinctive acceptance by the mass of the Indian people. To the cultivators who make up nine-tenths of the population, an equitable land revenue settlement and the timely advent of the monsoon may be of more importance than any projects of constitutional reform: but, when they find that neither just administration nor good monsoons can ensure a remunerative price for their produce, their lack of political ideas may make them more, rather than less, receptive of political arguments. History has repeatedly shown the unwisdom of judging the political consciousness of a people by the standard of its least instructed class, and the creation of the British Empire, as we know it to-day, has been mainly due to the fact that for the last hundred and fifty years British policy has been guided by a more generous appreciation of the value, and a juster estimate of the influence of what is sometimes called a politically-minded class.

The Preamble of the Act of 1919.

12. British policy has certainly been so guided in India during recent years. It has conferred on the people of India, by the Act of 1919, wide powers of self government and, during the last six or seven years, from the appointment of the Statutory Commission onwards, it has been consistently directed to working out in free collaboration with Indians themselves, the lines of a new and more permanent constitution. In particular for the first time in the history of India representatives of her Princes and peoples have sat

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for many months in council with representatives of His Majesty's Government and of the great political Parties of the United Kingdom: and, for the first time in the history of Parliament, Indian delegates have taken part in the proceedings of a Joint Select Committee and have illuminated our discussions, even if circumstances forbade them to share our responsibilities. But, above all, in the Preamble to the Act of 1919, Parliament has set out, finally and definitely, the ultimate aims of British rule in India. Subsequent statements of policy have added nothing to the substance of this declaration and we think it well to quote it here in full, as settling once and for all the attitude of the British Parliament and people towards the political aspirations of which we have spoken:

"Whereas it is the declared policy of Parliament to provide for the increasing association of Indians in every branch of Indian administration, and for the gradual development of

self-governing institutions, with a view to the progressive realisation of responsible government in British India as an integral part of the empire:

"And whereas progress in giving effect to this policy can only be achieved by successive stages, and it is expedient that substantial steps in this direction should now be taken:

"And whereas the time and manner of each advance can be determined only by Parliament, upon whom responsibility lies for the welfare and advancement of the Indian peoples:

"And whereas the action of Parliament in such matters must be guided by the co-operation received from those on whom new opportunities of service will be conferred, and by the extent to which it is found that confidence can be reposed in their sense of responsibility:

"And whereas concurrently with the gradual development of self-governing institutions in the Provinces of India it is expedient to give to those Provinces in provincial matters the largest measure of independence of the Government of India, which is compatible with the due discharge by the latter of its own responsibilities:"

Constitutional theory in practice.

13. But a recognition of Indian aspirations, while it is the necessary preface to any study of Indian constitutional problems, is an insufficient guide to their solution. Responsible government to which those aspirations are mainly directed to-day, is not an automatic device which can be manufactured to specification. It is not even a machine which will run on a motive power of its own. The student of government who assumes that British constitutional theory can be applied at will in any country, misses the fact that it could not be successfully applied even in Great Britain if it were not modified in a hundred ways by unwritten laws and tacit conventions. It is not unnatural that, in the words of the Statutory Commission, most of the constitutional schemes propounded by

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Indians should closely follow the British model, but the successful working of that model postulates the existence of certain conditions, which are as essential as they are difficult to define. As Lord Bryce has remarked, "the English constitution, which we admire as a masterpiece of delicate equipoises and complicated mechanism, would anywhere but in England be full of difficulties and dangers.... It works by a body of understanding which no writer can formulate and of habits which centuries have been needed to instil". It is superfluous to adduce examples, but two of the most important may be cited; the powers of the Prime Minister and the position of the Civil Service. Of the first Mr. Gladstone said that "nowhere in the world does so great a substance cast so small a shadow"; of the second Professor Lowell has pointed out that both the civil servant's "abstinence from politics" and his "permanence of tenure" have been "secured by the force of public opinion hardening into tradition, and not by the sanction of law.". Above all, the understanding and habits of which Lord Bryce speaks are in the main the creation of, as they have in their turn helped to promote, the growth of mutual confidence between the great parties in the State, a confidence based on the fundamental beliefs, transcending the political differences of the hour, which each has come to repose in the good faith and motives of the other. Experience has shown only too clearly that a technique which the British people have thus painfully developed in the course of many generations is not to be acquired by other communities in the twinkling of an eye; nor,

when acquired, is it likely to take the same form as in Great Britain, but rather to be moulded in its course of development by social conditions and national aptitudes

Difference between the letter and spirit of British constitutional doctrine

14 Experience has shown, too, how easily the framers of written constitutions may be misled by deceptive analogies, succeeding only in reproducing what they suppose to be the letter of British constitutional theory, while ignoring the spirit and the living growth of British constitutional practice The classic instance of such misconception is offered by the constitution of the United States whose authors decided to keep the legislative branch absolutely distinct from the executive branch, largely because ' they believed such a separation to exist in the English which the wisest of them thought the best constitution * That error may seem absurd enough to modern students of politics but the mere copyist of British institutions would fall into even more dangerous errors to day if he were to assume that an Act of Parliament can establish similar institutions in India merely by reproducing such provisions as are to be found in the constitutional law of the United Kingdom It is certain, on the contrary as we shall show, that such an Act must seek to give statutory form to many ' safeguards which are essential to the proper working of parliamentary government, but which in Great Britain have no sanction save that of established custom, and, when this is done, it will remain true that parliamentary government in India may well develop on lines different from those of government at Westminster

* Bagehot *The British Constitution*

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Constitutional development should be evolutionary.

15 If then the long collaboration of Englishmen and Indians during recent years is to result in the enactment of a constitution which will work successfully under Indian conditions we shall do well to discard theories and analogies and instead to base our scheme on the government of India as it exists to day That was the line of approach which was adopted by the Statutory Commission and which has increasingly been followed in the deliberations of the Round Table Conferences and in our own consultation with the Indian delegates It is also the line which Parliament has followed in the past in framing the constitutions of the self governing Dominions If the constitutions of Canada Australia New Zealand and South Africa were framed on the British model, it was not because Parliament decided on theoretical grounds to reproduce that model in those countries but because government in those countries had been long conducted on British principles and had already grown into general conformity with British practice If these constitutions enacted over a period of more than forty years differ from one another in certain points those differences are not to be attributed to changes in British constitutional theory so much as to variations in the experience and practice of the particular communities themselves In India too there is already a system of government which while possessing many special characteristics is no less based on British principles and is no less a living organism Already, long before either the Morley Minto or the Montagu-Chelmsford reforms, that government had shown a marked tendency to develop on certain lines The safest hypothesis on which we can proceed, and the one most in accordance with our constitutional history, is that the future government of India will be successful in proportion as it represents, not a new creation substituted for an old one, but the natural evolution of an existing government and the natural extension of its past tendencies

Provincial Autonomy as natural development.

16 It is from this point of view that Parliament may well approach the first and basic proposal which has been submitted to us, the proposal to found the new constitutional system in India, on the principle of Provincial Autonomy That proposal has been so fully considered and so precisely formulated by the Statutory Commission that we do not propose to discuss its details in this introductory part of our Report It is however important to observe that far-reaching as is this constitutional change it is not a break with the past Every student of Indian problems, whatever his prepossession from the Joint Select Committee of 1919 to the Statutory Commission and from the Statutory Commission onwards has been driven in the direction of Provincial Autonomy not by any abstract love of decentralisation but by the inexorable force of facts Moreover the same facts had already set the Government of India moving in the same direction long before the emergence of the constitutional problem in its present form When that problem did emerge, a long and steady process of

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administrative devolution from the Government of India to the Provincial Governments had already profoundly affected the whole structure of Indian administration In particular this gradual course of devolution had produced three important results It had tended to remove Provincial administration from the immediate purview of His Majesty's Government and by thus weakening the direct accountability of Indian administrators to Parliament, it had perhaps, rendered inevitable the introduction in some degree, of local responsible government At the same time it had tended to make the Provinces the centres of the development of social services and it had also tended to transfer to the Provincial Executives the prime responsibility for the preservation of law and order From these three changes the three main features of Provincial Autonomy are directly derived

Abolition of dyarchy approved

17 In the first place the Act of 1919 introduced a large measure of responsible government in the Provinces and the governments thus established have now been in operation for more than a decade Opinions may differ widely as to the success of this experiment but we agree with the conclusion reached by the Statutory Commission that its development has now reached a stage when it has outgrown the limits imposed upon it by the Act of 1919 The present dyarchic system in the Provinces as the Commission pointed out though designed to develop a sense of responsibility has sometimes tended to encourage a wholly different attitude A sense of responsibility is an attribute of character not a garment to be put on or discarded at will according to the particular social function which the wearer may be attending at the moment The Statutory Commission rightly observe that it can only be acquired by making men responsible politically for the effects of their own actions and their sense of responsibility must be enormously weakened if the action of government is split up into watertight compartments partitioned off by the clauses of a constitution Hence the recommendation of the Statutory Commission which we endorse that the dyarchic system should be abolished, and that Provincial Ministers should be made generally responsible over the whole field of Provincial government

Responsible government and social legislation.

18 Secondly in the sphere of social administration it is evident that a point has been reached where further progress depends upon the assumption by Indians of real responsibility for Indian social conditions Englishmen may legitimately claim that, for the greater

part of her material and intellectual progress, India has been mainly indebted to British rule. But from one aspect of Indian life British rule has tended to stand aside: it has followed a policy of neutrality and non interference in all matters which touch the religions of India. It is not difficult to justify that policy; but so closely are the habits and customs of the people bound up with their religious beliefs that the effect has been to put grave obstacles in the way of social legislation by the Government of India in such matters (to name

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only two obvious instances) as child marriage and the problem of the untouchables. These obstacles can only be removed by Indian hands. We are under no illusion as to the difficulty of that task, but we are clear that under responsible government alone can it be attempted with any prospect of success.

Essence of responsible government.

19. But the third aspect of Provincial Autonomy is still, as it has been from time immemorial, the most difficult and the most important. Among the many problems arising out of the process of devolution the most vital one is how best to ensure the continuity of the Provincial executives in the performance of what, in an earlier paragraph, we referred to as the fundamental functions of government: the enforcement of law and order, and the maintenance of an upright administration. Because these are the fundamental functions of government and because there is no greater danger to good government than the tendency to take their performance for granted, we have come, as will later appear, to the same conclusion as the Statutory Commission, that Provincial Ministers must be made responsible for their performance. But it is well to remember what, according to British constitutional practice, is the nature of that responsibility. It is a responsibility which no executive can share with any legislature, however, answerable it may be to that legislature for the manner of its discharge. That has been true of the relationship of the Government of India to Parliament in the past; it must remain true of the relationship of Provincial Ministers to Provincial Legislatures in the future. It is appropriate that this principle of executive independence should be expressed in the Constitution by the conferment of special powers and responsibilities on the Governor as the head of the Provincial executive. This raises a wider question on which a further word must be said.

British conception of Parliamentary government.

20. In establishing, or extending, parliamentary government in the Provinces, Parliament must take into account the facts of Indian life. Parliamentary government, as it is understood in the United Kingdom, works by the interaction of four essential factors: the principle of majority rule; the willingness of the minority for the time being to accept the decisions of the majority; the existence of two organised political parties differing on questions of policy, but each confident in the other's good faith and public spirit; and, finally the existence of a mobile body of political opinion, owing no permanent allegiance to either Party and therefore able, by its instinctive reaction against extravagant movements on one side or the other, to keep the vessel on an even keel. In India none of these factors can be said to exist to-day. There are no parties, as we understand them, and no mobile body of political opinion. In their place we are confronted with the age-old antagonism of Hindu and Muhammedan, representatives not only of two religions but of two civilisations, with numerous self-contained and exclusive minorities, all a prey to anxiety for their future and profoundly

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suspicious of the majority and of one another, and with the rigid divisions of caste (itself a denial of every democratic principle) In these circumstances, communal representation must be accepted as inevitable at the present time, but it is a strange commentary on some of the democratic professions to which we have listened We lay stress on these facts because in truth they are of the essence of the problem and we should be doing no good service to India by glazing them over These difficulties must be faced, not only by Parliament, but by Indians themselves It is impossible to predict whether, or how soon, a new sense of provincial citizenship, combined with the growth of parties representing divergent economic and social interests, may prove strong enough to absorb and obliterate the religious and racial cleavages which thus dominate Indian political life Meanwhile it must be recognised that, if free play were given to the powerful forces which would be set in motion by an unqualified system of parliamentary government the consequences would be disastrous to India, and perhaps irreparable In these circumstances, the successful working of parliamentary government in the Provinces must depend in a special degree on the extent to which Parliament can translate the customs of the British constitution into statutory 'safeguards

Safeguards not inconsistent with responsible government.

21 That word like other words repeatedly used in recent discussions, has become a focus of misunderstandings both in England and India To many Englishmen it conveys the idea of an ineffective rearguard action, masking a position already evacuated to, many Indians it seems to imply a selfish reservation of powers inconsistent with any real measure of responsible government Since it is too late to invent a new terminology we must make it clear that we use the word in a more precise and quite different sense On the one hand the safeguards we contemplate have nothing in common with those mere paper declarations which have been sometimes inserted in constitutional documents and which are dependent for their validity on the goodwill or the timidity of the men or the institutions to whom the real substance of power has been transferred They represent on the contrary (to quote a very imperfect but significant analogy) a retention of power as substantial and as fully endorsed by the laws, as that vested by the Constitution of the United States in the President as Commander-in-Chief of the Army but more extensive both in respect of their scope and in respect of the circumstances in which they can be brought into play On the other hand, they are not only not inconsistent with some form of responsible government but in the present circumstances of India it is no paradox to say that they are the necessary complement to any form of it, without which it could have little or no hope of success It is in exact proportion as Indians show themselves to be not only capable of taking and exercising responsibility but able to supply the missing factors in Indian political life of which we have spoken, that both the need for safeguards and their use will disappear We propose to

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examine later in this report the nature of the safeguards required, but we think it right to formulate here what seem to us to be the essential elements in the new constitutional settlement which these safeguards should be designed to supply

Need for flexibility;

22 The first is flexibility, so that opportunity may be afforded for the natural processes of evolution with a minimum of alteration

in the constitutional framework itself. The deplorable and paralysing effect of prescribing a fixed period for constitutional revision requires no comment in the light of events since 1919; but we are also impressed with the advantage of giving full scope for the development in India of that indefinable body of understanding, of political instinct and of tradition, which Lord Bryce, in the passage which we have quoted, postulates as essential to the working of our own constitution. The success of a constitution depends, indeed, far more upon the manner and spirit in which it is worked than upon its formal provisions. It is impossible to foresee, so strange and perplexing are the conditions of the problem, the exact lines which constitutional development will eventually follow, and it is, therefore, the more desirable that those upon whom responsibility will rest should have all reasonable scope for working out their own salvation by the method of trial and error. In other words, as the Statutory Commission emphasised in their Report, the new Indian Constitution must contain within itself the seeds of growth.

for a strong executive,

23. Next, there is the necessity for securing strong Executives in the Provinces. We have little to add to what the Statutory Commission have written on this point, and in our judgment they do not exaggerate when they say that nowhere in the world is there such frequent need for courageous and prompt action as in India and that nowhere is the penalty for hesitation and weakness greater. We do not doubt that Indian Ministers, like others before them, will realise this truth, but, in view of the parliamentary weaknesses which we have pointed out, the risk of divided counsels and therefore of feebleness in action is not one which can be ignored. We have no wish to underrate the legislative function; but in India the executive function is, in our judgment, of overriding importance. In the absence of disciplined political parties, the sense of responsibility may well be of slower growth in the Legislatures, and the threat of a dissolution can scarcely be the same potent instrument in a country where, by the operation of a system of communal representation, a newly elected Legislature will often have the same complexion as the old. We touch here the core of the problem of responsible government in the new Indian Constitution, and we shall examine it in greater detail in the body of our Report. Here, we content ourselves with saying that there must be (to quote again the Statutory Commission) an executive power in each Province which can step in and save the situation before it is too late, and this power must be vested in the Governor.

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for an efficient administration;

24. But, further, a strong Executive is impossible and the power thus vested in the Governor would be useless, in the absence of a pure and efficient administration the backbone of all good government. The establishment of a public service, at once disinterested and incorruptible, is not the least of the benefits which British rule has given to India, and it is perhaps the most prized. But the efficiency of a service is no less vital than its honesty. In no country perhaps does the whole fabric of government depend to a greater degree than in India upon its administration; and it is indeed literally true, as the Statutory Commission observe, that the life of millions of the population depends on the existence of a thoroughly efficient administrative system. But no service can be efficient if it has cause for anxiety or discontent. It is therefore essential that those whose duty it is to work this system should be freed from anxiety as to their status and prospects under the new constitution,

and that new entrants should not be discouraged by any apprehension of inequitable treatment. We have every hope that such anxieties or apprehensions will prove unfounded, but they may be none the less real on that account, and, so long as they exist, it is necessary that all reasonable measures should be taken to quiet them.

and for an impartial authority to hold scales evenly between conflicting interests

25. Lastly, there must be an authority in India, armed with adequate powers, able to hold the scales evenly between conflicting interests and to protect those who have neither the influence nor the ability to protect themselves. Such an authority will be as necessary in the future as experience has proved it to be in the past. It must, generally speaking, be vested primarily in the Provincial Governors, but their authority must be closely linked with, and must be focussed in, a similar authority vested in the Governor General, as responsible to the Crown and Parliament for the peace and tranquillity of India as a whole, (and for the protection of all the weak and helpless among her people). This leads us naturally to a consideration of the next point in the Indian constitutional problem—the form and character of the Central Government.

Provincial Autonomy requires a readjustment at Centre.

26. If the establishment of Provincial autonomy marks, not so much a new departure, as the next stage in a path which India has long been treading, it is the more necessary that, on entering this stage, we should pause to take stock of the direction in which we have been moving. We have spoken of unity as perhaps the greatest gift which British rule has conferred on India, but, in transferring so many of the powers of government to the Provinces and in encouraging them to develop a vigorous and independent political life of their own we have been running the inevitable risk of weakening or even destroying that unity. Provincial Autonomy is, in fact, an inconceivable policy unless it is accompanied by such an adaptation of the structure of the Central Legislature as will bind these autonomous units together. In other words, the necessary consequence of Provincial Autonomy in British India is a British India Federal Assembly. In recent discussions,

the word 'federation' has become identified with the proposals for an All India Federation and for the establishment, in the common phrase, of 'responsibility at the Centre," both of which proposals we shall have to discuss in a moment. But federation is, of course, simply the method by which a number of governments, autonomous in their own sphere, are combined in a single State. A Federal Legislature capable of performing this function need not necessarily control the Federal Executive through responsible Ministers chosen from among its members, indeed, as we shall show later, the central government of a purely British India Federation could not, in our opinion, be appropriately framed on this model. But a Federal Legislature must be constituted on different lines from the central legislature of a unitary State. The Statutory Commission realised this truth and proposed a new form of legislature at the Centre specifically designed to secure the essential unity of British India. As will later appear, we agree in general with the Commission's recommendations on this point, and we prefer them to the proposals contained in the White Paper.

Necessity for guarding against centrifugal tendencies.

27. Of course, in thus converting a unitary State into a Federation we are taking a step for which there is no exact historical precedent. Federations have commonly resulted from an agreement between independent or, at least, autonomous governments, surrendering a defined part of their sovereignty or autonomy to a new central

organism At the present moment, the British India Provinces are not even autonomous for they are subject to both the administrative and the legislative control of the Government of India, and such authority as they exercise has in the main been devolved upon them under a statutory rule making power by the Governor General in Council We are faced, therefore with the necessity of creating autonomous units and combining them into a federation by one and the same act But it is obvious that we have no alternative To create autonomous unit without any corresponding adaptation of the existing Central Legislature would be as the Statutory Commission saw, to give full play to the powerful centrifugal force of Provincial Autonomy without any attempt to counter act them and to ensure the continued unity of India We obviously could not take the responsibility of recommending to Parliament a course fraught with such serious risks The actual establishment of the new central legislature may without danger be deferred for so long as may be necessary to complete arrangements for an All India Federation if Parliament should decide to adopt that policy but its form must be defined in the Constitution Act itself

The Indian States and an All India Federation

28 The same reasoning does not, however apply to the further proposal laid before us that the Constitution Act should also determine the form and conditions of an All India Federation, including the Indian States This is a separate operation, which

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may proceed simultaneously with the introduction of Provincial Autonomy and the reconstitution of the Central Legislature, but which must be carried out by different methods and raises quite distinct issues of policy We will leave questions of method to be considered in the body of our Report but the issues of policy must be briefly discussed here

Difficulties of a Federation composed of disparate units

29 The Statutory Commission looked forward to the ultimate establishment of a Federation of Indian States and Provinces and they recommended that until this ideal could be realised policies affecting British India and the States should be discussed between the parties in a consultative but not legislative council of Greater India, consisting of representatives drawn from the States and the British India Legislature The Commission did not anticipate that the Princes would be willing to enter an All India Federation without some preliminary experience of the joint deliberation which they had suggested on matters of common concern and no doubt the Commission saw in this procedure the means of overcoming by a process of trial and error the difficulties of establishing an All India Federation These difficulties are obvious and again, they are quite distinct from the difficulties involved in the constitution of a British India Federation The main difficulties are two: that the Indian States are wholly different in status and character from the Provinces of British India and that they are not prepared to federate on the same terms as it is proposed to apply to the Provinces On the first point the Indian States, unlike the British India Provinces, possess sovereignty in various degrees and they are, broadly speaking, under a system of personal government Their accession to a Federation cannot, therefore take place otherwise than by the voluntary act of the Ruler of each State and, after accession the representatives of the acceding State in the Federal Legislature will be nominated by the Ruler and its subjects will continue to owe allegiance to him On the second point, the Rulers have made it clear that, while they are willing to consider federation now with the

Provinces of British India on certain terms, they could not as sovereign States, agree to the exercise by a Federal Government in relation to them of a range of powers identical in all respects with those which that Government will exercise in relation to the Provinces on whom autonomy has yet to be conferred We have here an obvious anomaly a Federation composed of disparate constituent units in which the powers and authority of the Central Government will differ as between one constituent unit and another

Unity of India endangered without a constitutional relationship between States and British India

30 Against these undoubted difficulties we have to place one great consideration of substance which appears to us to outweigh the disadvantages of any formal anomalies The unity of India on which we have laid so much stress is dangerously imperfect so long as the Indian States have no constitutional relationship with British India It is this fact, surely that has influenced the Rulers

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of the Indian States in their recent policy They remain perfectly free to continue if they so choose in the political isolation which has characterized their history since the establishment of the British connexion But they have, it appears become keenly conscious of the imperfections of the Indian polity as it exists today A completely united Indian polity cannot it is true be established either now or so far as human foresight can extend at any time In most respects the anomalies to which we have referred are the necessary incidents, not merely of the introduction of an All India Federation at this moment but of its introduction at any time in the future So far as we are aware no section of opinion in this country or in British India is prepared to forego an All India Federation as an ultimate aim of British policy Certainly the Statutory Commission was not prepared to do so and it is the ideal which they indicated in their report which has since won so much support among the Indian Princes The question for decision is whether the measure of unity which can be achieved by an All India Federation imperfect though it may be is likely to confer added strength, stability and prosperity on India as a whole that is to say both on the States and on British India To this question, there can, we think be only one answer an affirmative one and that answer does not rest only, or even chiefly on the kind of general considerations which naturally appeal most strongly to Englishmen From the point of view of Englishmen it is, indeed, evident enough that Ruling Princes who have been in the past the firmest friends of British rule, but who have sometime felt their friendship tried by decisions of the Government of India running counter to what they believed to be the interests of their States and peoples, may be expected as members of a Federation to strengthen it precisely in those directions in which Englishmen fear that it may prove weak, and to become helpful collaborators in policies which they are at present inclined to criticise or even to obstruct. But an even stronger, and a much more concrete, argument is to be found in the existing economic condition of India

Economic ties between States and British India.

31 The existing arrangements under which economic policies vitally affecting the interests of India as a whole have to be formulated and carried out are being daily put to an ever increasing strain as the economic life of India develops For instance, any imposition of internal indirect taxation in British India involves with few exceptions, the conclusion of agreements with a number of States for concurrent taxation within their frontiers, or in default of such agreement, the establishment of some system of internal customs duties an impossible alternative, even if it were not

precluded by the terms of the Crown's treaties with some States. Worse than this, India may be said even to lack a general customs system uniformly applied throughout the sub-Continent. On the one hand, with certain exceptions, the States are free themselves to impose internal customs policies, which cannot but obstruct

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the flow of trade. Even at the maritime ports situated in the States, the administration of the tariffs is imperfectly co-ordinated with that of the British India ports, while the separate rights of the States in these respects are safeguarded by long-standing treaties or usage acknowledged by the Crown. On the other hand, tariff policies, in which every part of India is interested, are laid down by a Government of India and British-India legislature in which no Indian State has a voice; though the States constitute somewhat less than half the area and one-sixth of the population of India. Even where the Government of India has adequate powers to impose internal indirect taxation or to control economic development, as in the cases of salt and opium, the use of those powers has caused much friction, and has often left behind it, in the States, a sense of injustice. Moreover, a common company law for India, a common banking law, a common body of legislation on copyright and trade-marks, a common system of communications, are alike impossible. Conditions such as these, which have caused trouble and uneasiness in the past, are already becoming, and must in the future increasingly become intolerable as industrial and commercial development spreads from British India to the States. On all these points the Federation now contemplated would have power to adopt a common policy. That common policy should be subject, no doubt, to some reservation of special treaty rights by certain States and in the States generally, its enforcement would in many respects, rest with officers appointed by the State Rulers; but, even so modified, it would mark a long step from incoherence towards order. In these times, when experience is daily proving the need for the close co-ordination of policies, we cannot believe that Parliament, while introducing a new measure of decentralisation in British India, would be wise to neglect the opportunity now offered to it of establishing a new centre of common action for India as a whole

The States and responsibility at the Centre.

32. An All-India Federation thus presents solid advantages from the point of view alike of His Majesty's Government, of British India and of the Indian States. But the attraction of the idea to the States clearly depends on the fulfilment of one condition: that, in acceding to the Federation, they should be assured of a real voice in the determination of its policy. The Princes have, therefore, stated clearly in their declaration that they are willing now to enter an All-India Federation, but only if the Federal Government is a responsible and not an irresponsible government. This brings us to the last of the main issues which have been submitted to our consideration, the issue whether in the common phrase, there shall or shall not be any degree of "responsibility at the Centre."

Responsibility without the States not a solution of the problem.

33. It is obvious at the outset, that the very ground on which the Princes advocate responsibility at the Centre in an All-India Federation constitutes the strongest possible argument against responsibility at the Centre in a purely British India Federation; for

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a British India Centre would have to deal, as now, with matters intimately affecting the States, yet would, as now, be unable to give the States any effective voice in its deliberations. If the States

are irked by the exercise of such powers by the present Government of India, their exercise by Ministers responsible to a purely British Indian electorate could hardly fail to lead to serious friction Indeed, the position of the Governor-General in such circumstances, as the sole representative of the Crown in its treaty relations with the States and, therefore, as the sole mediator between a British Indian electorate and the State Rulers, would be an almost impossible one. We agree, therefore, with the Statutory Commission in thinking that a responsible British Indian Centre is not a possible solution of the constitutional problem or would, at most, only be possible at the price of very large deductions from the scope of its responsibility.

The statutory commission and responsibility at the Centre.

34. But the Statutory Commission went further than this They considered the question of responsibility at the Centre from another angle also It is unnecessary to repeat all that they said on the subject, but they realised, as every student of the problem must realise, that responsible government at the Centre could not in any case, extend to all departments of the Central Government, and that, in any case, it would be necessary to reserve Defence and Foreign Affairs from the sphere of Ministerial responsibility Hence any measure of responsible government at the Centre must involve a system of dyarchy, and the Commission held strongly the view that a unitary Government at the Centre was essential and should be preserved at all costs "It must be a Government, so they wrote, "able to bear the vast responsibilities which are cast upon it as the central executive organ of a sub-continent, presenting complicated and diverse features which it has been our business to describe"; and they expressed the opinion that a plan based on dyarchy was unworkable and would, indeed, constitute no real advance in the direction of developing central responsibility In this connection we may usefully quote one passage from the Report of the Statutory Commission on the working of dyarchy in the Provinces 'The practical difficulty in the way of achieving the objective of dyarchy and of obtaining a clear demarcation of responsibility arises not so much in the inner counsels of government as in the eyes of the Legislature, the electorate and the public Provincial Legislatures were by the nature of the Constitution set the difficult task of discharging two different functions at the same time In the one sphere, they were to exercise control over policy, in the other, while free to criticise and vote or withhold supply, they were to have no responsibility The inherent difficulty of keeping this distinction in mind has been intensified by the circumstances under which the Councils have worked to such an extent that perhaps the most important feature of the working of dyarchy in the Provincial Councils, when looked at from the constitutional aspect is the

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marked tendency of the Councils to regard the Government as a whole, to think of Ministers as on a footing not very different from that of Executive Councillors, to forget the extent of the opportunities of the Legislatures on the transferred side and to magnify their functions in the reserved field"

Possible divisions of responsibility;

35 These are undoubtedly formidable objections, but they do not, we think, exhaust the question. It is impossible adequately to discuss the real issues involved in a decision for or against the introduction of some measure of responsibility at the Centre if the discussion is confined to the Centre itself and is conducted in terms of "dyarchy." Like so many other words used in political controversy, "dyarchy"

has collected round it associations which tend to obscure issues rather than to clarify them. The truth is that, in any constitution, and above all in a Federal constitution, there must be a division of responsibility at some point, and at that point there will always be a danger of friction. In framing a constitution, the problem is to draw the line at a point where these necessary evils will be minimised and the line will be drawn at different points according to the character and problems of the particular country concerned. It may be drawn at a point where the powers which are reserved from the normal operation of the constitution have, in ordinary times, little or no practical effect on the formulation and execution of policy as, for instance, the line drawn in the British North America Act, between the powers of the Governor-General and the powers of the Governor-General in Council. But in India no easy solution of this kind is possible. There the line drawn must reserve to the Governor-General large powers which will have an important effect upon the policy of the government as a whole. Broadly speaking, three possible lines of division have been suggested to us each of which deserves to be briefly discussed

(1) In the provincial sphere:

36. One is a line drawn within the sphere of the Provincial Governments in such a way as to reserve to the Provincial Governors the responsibility for the maintenance of law and order, and to the Governor-General the responsibility for all Central subjects. This solution eliminates dyarchy at the Centre, but perpetuates it in the Provinces, and we have already indicated our reasons for rejecting it. We shall discuss these reasons more fully in the body of our Report.

(2) between Centre and Provinces:

37. The second line suggested to us is one coinciding with the line of division between the Provincial Governments and the Central Government, the former being wholly responsible governments and the latter wholly irresponsible. This was the immediate (though not, as we shall suggest in a moment, the ultimate) line of division recommended by the Statutory Commission, and it is the one which we should probably have felt constrained to recommend if we had been considering a purely British Indian Federation But it is, we think, open to very serious objections which could not be fully

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present to the mind of the Statutory Commission. Though it might appear at first sight to eliminate altogether the evils of dyarchy, its real effect is rather to conceal dyarchy than to eliminate it Its actual effect would be to reserve to the Governor-General the unpopular duty of taxation while allotting to responsible Provincial Ministers the agreeable task of spending the money so raised. It must be remembered that the Statutory Commission based their financial recommendations on an estimate of the future revenues of India far more sanguine than would now be accepted by any expert They, therefore, felt able to recommend the establishment of a Provincial Fund, fed by automatic allocations from Central revenues which in turn would be automatically distributed among the Provinces. In a State so happily provided with ample revenues that their division between two distinct sets of public authorities could be fixed in advance by the Constitution for all time, the existence of an irresponsible government at the Centre side by side with responsible governments in the Provinces might no doubt have been expected to work reasonably well. It is, however, impossible for Parliament to-day to base its policy on any such assumption. The Central and Provincial Governments must

as we shall show when we come to our financial recommendations, be financed from year to year largely out of the same purse That purse, for some time to come at least, will be at best barely adequate for the needs of both, and it must, in effect, be under the sole control of the Central authorities In these circumstances, Central policies of taxation and Central economic policies on which the wealth of India and the volume of her public revenue will depend, must be of the most immediate and fundamental interest to the Government of every Province A line of division which withheld this whole range of policy from the consideration of responsible Ministers could hardly fail to become the frontier across which the bitterest conflicts would be waged and its existence would afford to Provincial Ministers a constant opportunity to disclaim responsibility for the non-fulfilment of their election promises and programmes

(3) In the Central Government itself.

38 Lastly, the line can be drawn within the Central Government itself, in such a way as to reserve the Departments of Defence and Foreign Affairs to the Governor General, while committing all other Central subjects to the care of responsible Ministers subject always to the special responsibilities and powers of the Governor General outside his Reserved Departments It is we think a fair conclusion from the Report of the Statutory Commission that this was the line at which they contemplated that the division of responsibility would ultimately be made They contemplated an eventual All India Federation They believed that the constitution which they recommended for the Central Government would contain in itself the seeds of growth and development It was, no doubt, for that reason, and foreseeing the course of that development that they suggested that the protection of India's frontiers should not at any

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rate for a long time to come, be regarded as a function of an Indian Government in relation with an Indian Legislature at all, but as a responsibility to be assumed by the Imperial Government Apart from the difficulties of this suggestion, to which we shall have to return in the body of our Report it obviously involves a dyarchy of much the same kind as would result from a frank reservation to the Governor General of the Department of Defence In fact the reservation of Defence with the reservation of Foreign Affairs as intimately connected with Defence is the line of division which corresponds most nearly with the realities of the situation It is also the line of division which on the whole, creates the least danger of friction As the Statutory Commission pointed out in the passage we have already quoted, dyarchy has not, even in the Provinces raised any insuperable difficulties in the inner counsels of the government' and the danger of friction in the inner counsels of the Central Government will be even smaller, for the administration of Defence and Foreign Affairs will normally, at any rate have few contacts with other fields of Central administration under the new constitution The one real danger of friction, and that a serious one lies in the very large proportion of Central revenues which is, and must continue to be, absorbed by the Army Budget That Budget will be removed from the control of the Central Legislature, which will be able to discuss, but not to modify or reject it and it may be argued with much force that the existence of a standing charge of this magnitude will deprive Ministers chosen from the Legislature of any real responsibility for the financial policy of the Federation.

The Central Legislature and the Army Budget

39. It is true that this difficulty is inherent in the facts of the situation It exists at the present day Ever since the Act of 1919, the Central Legislature has constantly sought to 'magnify its

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functions in the reserved field" of the Army Budget. The serious friction thus caused would be likely to manifest itself in an even stronger form in the future in a Central Legislature such as was proposed by the Statutory Commission—a Legislature largely representative of Provincial Legislatures, yet denied all effective control over any branch of Central finance. It is also true that the Statutory Commission's own scheme for a reservation of Defence to the Imperial Parliament would raise the same difficulty in an even more acute form. It is even true that the friction which now exists over Army expenditure could hardly be intensified and might be substantially mitigated by the existence of a Ministry generally responsible to the Legislature for finance. Yet in spite of these weighty considerations the danger of friction between the Governor-General and the Legislature over the Army Budget undoubtedly furnishes an additional argument against responsibility at the Centre in a purely British Indian Federation. But that is not the proposition we are now discussing. We have already made it clear that, in such a Federation, we should have felt constrained to draw our line of division at another point, notwithstanding the disadvantages of the alternatives to which we have drawn attention

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above. What we are now discussing is an All-India Federation, and in regard to the Army Budget, as in regard to the broader issues of the relations between British India and the States, the declaration of the Princes, indicating their willingness to enter an All-India Federation, has introduced a new and, in our judgment a determining factor. It is reasonable to expect that the presence in the Central Executive and Legislature of representatives of the State Rulers who have always taken so keen an interest in all matters relating to Defence will afford a guarantee that these grave matters will be weighed and considered with a full appreciation of the issues at stake. It is, indeed, one of the main advantages of an All-Indian Federation that it will enable Parliament to draw the line of division between responsibility and reservation at the point which, on other grounds, is most likely to provide a workable solution.

Relations between autonomous Provinces and an irresponsible Central Government.

40. Before leaving this subject we ought, perhaps, to refer to one argument which has been urged upon us in favour of a wholly irresponsible Central Government, and also to one particular danger which we think Parliament should be careful to avoid. The argument to which we refer is that an irresponsible Centre would constitute a reserve of power which could be used at any moment by the Governor-General to redress the situation in any Province, if responsible government in that Province should break down. This argument seems to us to rest on a misapprehension. The Governor-General in an irresponsible Centre would have no more and no less power of intervention in the Provinces, either to forestall a constitutional breakdown or to restore the situation after such a breakdown, than he would possess under our recommendations. Our recommendations do, in fact, reserve to him such power through the interaction of his own and the Provincial Governors' special powers and responsibilities; but, in so far as his opportunities of intervention are limited, they are limited, not by the constitution of the Central Government, but by the establishment of autonomous Provincial Governments. The danger which we think Parliament should avoid, lies in the fact, on which we have already insisted, that Ministerial responsibility is not itself a form of government which can be created or prevented at will by the clauses of a statute,

so much as a state of relationships which tends to grow up in certain circumstances and under certain forms of government It follows that a Constitution Act cannot legislate against Ministerial responsibility at the Centre, if its other provisions, or the facts of the case, are such as to encourage the development of such responsibility. It has been suggested to us that, while the Central Government should be declared by the Constitution to be an irresponsible Government, the Governor General should be free to select any of his Executive Council from among the members of the Central Legislature, and that a member of the Legislature assuming Ministerial office should not be obliged to resign his seat in the Legislature. There is much to be said for such a proposal, but it is,

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in fact, a proposal, not for the perpetuation of an irresponsible Government, but for the gradual introduction of a responsible one. It would tend (as the Statutory Commission saw) to introduce responsible government at the Centre by insensible degrees without any statutory limitation of the scope of Ministerial power and responsibility That is, indeed, broadly speaking, the way in which responsible government actually grew up in Canada. It may be difficult to draw any satisfactory line of division between reserved powers and responsible government, but, under the conditions of the problem that we are examining, Parliament should be careful not to draw a definite line in principle, only to blur it in practice

41. We cannot leave this subject without asking the vital question which Parliament will have to answer: whether a Central Government of India constituted as we propose would fulfil the condition we have already laid down—whether it would provide a Central authority strong enough to maintain the unity of India and to protect all classes of her citizens That question cannot be answered apart from a consideration of the strength or weakness of the Central Government as it now exists As our enquiries have proceeded, we have been increasingly impressed, not by the strength of the Central Government as at present constituted, but by its weakness. It is confronted by a Legislature which can be nothing but (in Bagehot's words) "a debating society adhering to an executive" The members of that Legislature are unrestrained by the knowledge that they themselves may be required to provide an alternative government, whose opinions are uninformed by the experience of power, and who are prone to regard support of government policy as a betrayal of the national cause. It is no wonder that the criticism offered by the members of such a Legislature should have been mainly destructive, yet it is abundantly clear from the political history of the last twelve years that criticism by the Assembly has constantly influenced the policy of Government. As a result, the prestige of the Central Government has been lowered and disharmony between Government and Legislature has tended to sap the efficiency of both. Indeed, the main problem which, in this sphere, Parliament has now to consider is how to strengthen an already weakening Central Executive. We believe that the Central Government which we recommend will be stronger than the existing Government and we see no other way in which it could be strengthened. Weakness of present Central Government.

42. We would close this introductory part of our Report with one final word. At its outset be recorded our recognition of Indian aspirations and our sense of the weight to be attached to them. Having done so, we have examined the problem from another angle, concentrating our attention on the facts of Indian government and of Emergency of body of central opinion in United Kingdom and in India.

Indian social conditions. Our study of these facts, has led us to certain concrete conclusions which in the body of our Report we shall have further to elaborate and justify. But, having thus reached our

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conclusions by the exercise of our judgment on the facts of the case, we may be permitted to urge their acceptance as embodying, in their broad lines, a policy on which responsible public opinion both in this country and in India may unite. We have already referred to the long process of collaboration through which successive Governments in this country have sought to ascertain whether any substantial measure of agreement was possible upon the principles which should inform a new constitutional settlement in India. It can scarcely have been expected by the members of the Statutory Commission, or by the participants in the Round Table Conferences, that free and unfettered discussion of issues so formidable and complex would succeed in achieving so substantial a measure of common agreement as that which has emerged in the course of the last two years. No scheme for the future government of India is, of course, at present in existence which can be said to have been agreed even unofficially between representatives of the two countries. Indeed, we recognize that even moderate opinion in India has advocated and hoped for a simpler and more sweeping transfer of power, in form if not in substance, than we have felt able to recommend. Moreover, it must not be forgotten that there is a party in India with whom the prospect of agreement of any kind must be remote. But, from the discussions and personal contacts of recent years, there has emerged in each country what may fairly be described as a body of central opinion which has at least reached a juster appreciation both of the difficulties which impress and the motives which inspire a similar body of opinion in the other country. It is now possible to discern much common ground where previously the dividing gulf might have seemed to be unbridgeable. Not only has this movement of opinion been observable both in this country and in British India, but the Indian States also, in making their contributions to recent discussions, have at least indicated possibilities of agreement with His Majesty's Government and with representatives of public opinion in British India, on a new and far-reaching policy of Federation, which only a few years ago would have been thought to be outside the range of practical politics. On the common ground thus marked out we believe that the foundations of a firm and enduring structure can be laid.

Issues with which Parliament is faced.

42A. Parliament is, indeed, confronted with grave problems, but it is also offered a great opportunity. There are moments in the history of nations when a way seems to be opened for the establishment between people and people of new relations more in harmony with the circumstances of the time, but when that way is beset by all the dangers inherent in any transfer of political power. Such moments are a sharp test of political sagacity, of the statesman's instinct for the time and manner of the change. If that instinct fails, either from rashness or from over-caution, there is small chance of recovery. In the present issue, the dangers of rashness are obvious enough. They have been urged upon us by some to

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whom the majestic spectacle of an Indian Empire makes so powerful an appeal that every concession appears to them almost as the betrayal of a trust; but they have been urged on us also by others

whose arguments are based on the undeniable facts of the situation. Those arguments are for instance that no self-governing nation of the British Empire has ever been faced within its borders at one and the same time by all the problems with which India has to deal by the ever present risk of hostilities on her frontier by the cleavage between communal interests, by innumerable differences of race and speech, by a financial system largely dependent for its credit on centres outside India, and by a vast population in every stage of civilisation Against all this, the dangers of over caution are no less plain No one has suggested that any retrograde step should be taken, very few that the existing state of things should be maintained unaltered The necessity for constitutional advance, at least within the limits of the Statutory Commission's report, may be regarded as common ground We have given our reasons for believing that the constitutional arrangements which we recommend, including a measure of responsibility at the Centre, follow almost inevitably from these accepted premises If this conclusion is rejected, two consequences at least must be faced the prospect of an All India Federation will disappear, perhaps for ever, but certainly for many years to come, and the co operative efforts of the last few years, together with that body of central opinion which we have described, will be irretrievably destroyed

12B These are grave issues, and if we do not enlarge further upon the consequences of a failure to make the right use of the present opportunity it is because we believe that the choice that is now to be made must be made without fear and without favour, on a just estimate of the facts of a situation and the feelings of a people on a cool calculation of the risks involved in any of the alternative courses open to us but without hesitations born of timidity We have recommended the course which appears to us to be the right one but whatever course Parliament may eventually choose it is above all necessary that its choice should be resolute and decisive By general admission, the time has come for Parliament to share its power with those whom for generations it has sought to train in the arts of government and, whatever may be the measure of the power that is to be transferred, we are confident that Parliament, in consonance with its own dignity and with the traditions of the British people, will make the transfer generously and in no grudging spirit Parliament's choice must be resolute and decisive.

The same is agreed to

New paragraphs 1 to 12B are again read

The further consideration of paragraphs 1 to 12B is postponed

Ordered that the Committee be adjourned till to-morrow at half past Two o'clock

Die Mercurii 25° Julii 1934

Present:

LORD ARCHBISHOP OF CANTERBURY.
MARQUESS OF SALISBURY.
MARQUESS OF ZETLAND.
MARQUESS OF LINLITHGOW.
MARQUESS OF READING.
EARL OF DERBY.
EARL PEEL.
VISCOUNT HALIFAX.
LORD MIDDLETON.
LORD KER (M. LOTHIAN)
LORD HARDINGE OF PENSHURST
LORD RANKEILLOUR
LORD HUTCHISON OF MONTROSE
MR. ATTLEE.
MR. BUTLER.
MAJOR CADOGAN.
SIR AUSTEN CHAMBERLAIN.
SIR REGINALD CRADDOCK.
MR. DAVIDSON.
MR. FOOT.
SIR SAMUEL HOARE.
MR. MORGAN JONES.
SIR JOSEPH NALL.
LORD EUSTACE PERCY.
SIR JOHN WARDLAW-MILNE.
EARL WINTERTON.

THE MARQUESS OF LINLITHGOW in the Chair.

The Order of Adjournment is read.

The Proceedings of yesterday are read.

Paragraphs 43 to 389 are again postponed.

Paragraph 390 is again read.

It is moved by Sir Reginald Craddock. Page 217 line 8, to leave out ("and which")

The same is agreed to.

It is moved by Sir Reginald Craddock. Page 217, line 9, to leave out from ("capital") to the end of the sentence and insert: (to "These two "sub Provinces, Arakan and Tenasserim, constituted the nucleous of British "territorial dominion in Burma and were administered as distant appanages "of Bengal.")

The same is agreed to.

Paragraph 390 is again read, as amended.

The further consideration of paragraph 390 is postponed.

Paragraph 391 is again postponed.

Paragraph 392 is again read.

It is moved by Sir Reginald Craddock. Page 218, line 6, after ("of") to insert ("Arakan and") and to leave out ("and Martaban").

The same are agreed to.

It is moved by Sir Reginald Craddock. Page 218 line 7, after ("Province") to insert: ("known as Lower Burma or British Burma").

The same is agreed to.

Paragraph 392 is again read, as amended.

The further consideration of paragraph 392 is postponed.

Paragraph 393 is again postponed.

Paragraph 394 is again read.

It is moved by Sir Reginald Craddock. Page 218, line 46 to page 219, line 1, to leave out from ("demanded") in line 46, page 218, to ("and") in line 1, page 219, and to insert ("complete Home Rule").

The same is agreed to.

Paragraph 394 is again read, as amended.

The further consideration of paragraph 394 is postponed.

Paragraphs 395 and 396 are again postponed.

All amendments are to the Draft Report (*vide infra* paras. 1-423, pp. 470-491; and *vide supra* paras. 43-453, pp. 64-253) and NOT to the Report as published (Vol. I, Part I).

A Key is attached (see pp. 521-544), showing on which pages of the Proceedings amendments to each paragraph can be found.

Paragraph 397 is again read.

It is moved by Sir Reginald Craddock Page 220, line 47, after ("entails") to insert (",and the fact that the indigenous peoples of Burma belong to the "Mongolian group of races and are distinct from the Indian races in origins, "in languages and by temperament and traditions")

The same is agreed to.

Paragraph 397 is again read, as amended
The further consideration of paragraph 397 is postponed

Paragraph 398 is again postponed

Paragraph 399

It is moved by Sir Reginald Craddock Page 222, line 18, to leave out (" Burma was fully annexed to India ") and to insert (" the whole of Burma " became part of the Indian Empire ")

The same is agreed to

Paragraph 399 is again read, as amended
The further consideration of paragraph 399 is postponed

Paragraphs 400 to 404 are again postponed.

Paragraph 405 is again read.

It is moved by Sir Samuel Hoare and Mr Butler Page 225, lines 27 to 30, to leave out from (" opinion,") in line 27, to (" should ") in line 30 and to insert (" the two Constitution Acts should state the minimum period for " which the Agreement is to be binding on India and Burma and also make it " clear that after the termination of that period it should be open to but not " incumbent on, either side to give notice of its intention to determine it, " the period of notice, which might conveniently perhaps be twelve months, " should also be stated in the Act We do not ourselves make any more " precise recommendation as to what the minimum period of the Agreement's " validity should be than that it should not be less than one year, for we " think it would be far best that the actual period should, like the content " of the Agreement, be fixed by mutual accommodation between India and " Burma in the course of the negotiations If, however, they should fail to " reach agreement on this point we think that His Majesty's Government, " who would no doubt be apprised of the differing views held, should insert " a specific period in the Bills laid before Parliament We think also that the " agreement ").

The same is agreed to.
Paragraph 405 is again read as amended
The further consideration of paragraph 405 is postponed.
Paragraph 406 is again postponed

It is moved by Sir Samuel Hoare and Mr Butler Page 225. After paragraph 406 to insert the following new paragraph —

(" 406A There is a congnate matter which it is important should be settled before separation comes into effect, namely, the means of affording relief to persons, firms and companies who might otherwise be exposed by the act of separation to a double liability to income-tax We regard it as important that such relief should be afforded, and we understand that the question of the means best adapted to achieve the purpose is now under examination Pending the result of this examination we make no specific recommendation as to the statutory provision required, but we think that this matter should be dealt with on similar lines to those which we have recommended in the case of the Trade Agreement ") Relief from double income-tax.

The same is agreed to

New paragraph 406A is again read, as amended

The further consideration of paragraph 406A is postponed.

Paragraphs 407 to 414 are again postponed.

Paragraph 415 is again read.

It is moved by Sir Reginald Craddock. Page 229, lines 27 to 41, to leave out from ("accepted.") in line 27, to the end of the paragraph, and to insert (" *Prima facie* the same considerations would apply in Burma as would apply if she were not separated from India but continued to constitute a Province of British India. But it is necessary to take into account the factors which differentiate conditions in Burma from those of Provinces in India.")

The further consideration of the said amendment is postponed.

It is moved by Sir Reginald Craddock. Page 229, after paragraph 415, to insert the following new paragraph:

(" 415A. The communal question so far as it arises from strong religious antagonisms is comparatively unimportant in Burma, though Hindu-Moslem conflicts are not unknown even there. But its place is taken by racial rivalries between Indian and Burman, Burman and Chinese, and sometimes between Karen and Burman, which upon occasions have flared up into acts of violence or persecution. Again, serious crime—especially crimes of violence—appears to be more rife in Burma than in India. In proportion to population the percentage of murders, dacoities and cattle thefts exceeds (and often greatly exceeds) the percentage in almost every other Province in British India. It has been frequently necessary to adopt special measures to deal with dacoities accompanied by murder, and waves of crime are apt to develop into rebellions and guerilla warfare, as was shown by the recent grave rebellion and other similar revolts in the history of the country. Moreover, peace has frequently been disturbed by conspiracies, sometimes originating across the border, led by exile pretenders claiming royal descent, or by persons supposed to be reincarnated national heroes who play on the superstitions of the ignorant people. All these movements, if not properly handled from the outset, may throw a countryside into disorder and panic and cause loss of life and property.

" The recent tendency of the 'Yellow Robe' to encourage and stir up political animosities is a disquieting feature of recent years, for the influence of the monks is very great, especially over the women, and is far more extensive than is the case in India. It has also to be remembered that the agency for dealing effectively with subversive movements or incipient rebellion is almost entirely Indian and that there is a large Indian contingent in the civil police of Rangoon, in which city (population. 400,000) the Burmese are outnumbered by Indians, constituting only 30 per cent. of the population of Rangoon as against 53 per cent. Indian: while Chinese, who have largely increased in numbers, amount to over 30,000, or 8 per cent. of the population. Terrorism, as an indigenous movement, is practically unknown so far as Burmans are concerned, though emissaries of the Terrorist Movement are not wanting among the Bengalis in Rangoon, some among whom were believed to be privy to the late rebellion. We have also to consider the safety of the Indian population in the richer tracts of the Province, the Delta and Coastal Districts. These men have in their hands a predominant share of the trade, commerce and money lending of these areas, and in the event of any anti Indian movement among their Burman neighbours taking violent form, will be in a very precarious position. Taking all these special features into consideration, we feel that if the department of Law and Order be transferred to the charge of a Minister, it will be necessary for the Governor to be invested with the same power of resuming control as we have recommended in the case of Indian Provinces wherever Bengal terrorism has penetrated.")

The further consideration of the said amendment is postponed.

Paragraphs 416 to 418 are again postponed.

Paragraph 419 is again read.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 231, lines 22 to 24, to leave out from (" Provinces ") in line 22 to the end of the sentence, and

to insert (" We have already recorded out views in relation to the first of them " and subject to the governing factor that in the unitary government of " Burma the special and discretionary responsibilities and special powers of " the Governor-General and of the provincial Governors in India, respectively, " will be combined in the hands of the Governor, we are of opinion that the " recommendations which we have made elsewhere[1] in regard to these matters, " and in regard to arrangements for apprising the Governor of any question " affecting them in India should apply with some necessary adjustments of " form, in the case of Burma.")

The same is agreed to.
Paragraph 419 is again read, as amended.
The further consideration of paragraph 419 is postponed.
Paragraphs 420 to 425 are again postponed.
Paragraph 426 is again read.

It is moved by the Lord Rankeillour. Page 234, line 29, to leave out (" unless it is sooner dissolved ").

The amendment, by leave of the Committee, is withdrawn.
Paragraph 426 is again read.
The further consideration of paragraph 426 is postponed.
Paragraphs 427 to 437 are again postponed.
Paragraph 438 is again read.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 241, line 37, after the amendment inserted after (" objection ") at the first stage to insert : (" As regards the request to retain the rights and privileges of that Service, " we note that the Burma White Paper proposes, rightly in our opinion, " that officers serving in Burma who were appointed by the Secretary of State " shall be protected in existing rights and that the Secretary of State shall " be empowered to award such compensation as he may consider just and " equitable for the loss of any of them.")

The same is agreed to.
Paragraph 438 is again read, as amended.
The further consideration of paragraph 438 is postponed.
It is moved by Sir Reginald Craddock. Page 241, after paragraph 438, to insert the following new paragraph :—

(" 438A. There is, however, one point of importance to which we must refer. The Statutory Commission while considering that the new Constitution of a separated Burma would, like that of India, be a stage on the journey to more complete self-government, added that it would not be assumed that detailed provisions would not vary :

'In particular the provisions of the Lee Report, which fixed a date by which a certain proportion of British to Indians in the Services should be reached, was based on a general average for the whole of India—greater in some Provinces, less in others. These proportions must not, therefore, be taken as automatically applicable to a separated Burma. Recruitment on a basis corresponding to the basis of All-India Services will be required and it will be of the greatest importance to preserve and build up the traditions of these Services. The pace of Burmanisation must be decided on its merits. The ultimate advancement of Burma will depend more than anything else on the efficiency of a suitable administration during the years now coming, and premature efforts on its part to dispense with help from Britain would only lead to disaster.'

Having regard to these remarks of the Statutory Commission bearing on recruitment for the Security Services, it is not possible to ignore the fact that no Burman succeeded in entering the Indian Civil Service, before 1922, when two Burmans were nominated, whereas Indians

[1] *Supra*, paras. 75—77, 88—96 (so far as applicable), 167 and 168.

had won places in an open competition for that Service over a period extending back 65 years. The ratio of Burmanisation must depend upon qualified candidates being available in sufficient numbers, otherwise the standard of the Service cannot but fall, and the higher salaries attaching to it be wasted, to the great discontent of experienced Burmese officers in the Provincial Civil Service who have been performing their duties satisfactorily on much lower pay. The table in the footnote below compares the composition of the Burma Commission on the Executive side in 1924 and 1934 respectively. The British Members of that Commission have in 10 years' interval fallen from 138 to 96, while the Burmans in the I.C.S. have risen from 4 to 20. Of these, only 4 have reached 8 years of service, 6 were appointed in the current year, and the remaining 10 have from 3-5 years' service only.

The Burma Commission (Executive Side)

	British Officers.			Burmans in the I.C.S.	Total.
	Military Officers.	I.C.S.	Total.		
1924	21	117	138	4	142
1934	9	87	96	20	116

The most senior Burman in the I.C.S. has 12 years' service. Only 1 out of the 20 entered by open competition in London. The decline in the strength of the Burma Commission proper has been partly compensated for by promotion, permanent and officiating, of Burman officers drawn from the Provincial Service. Having regard to the caution of the Statutory Commission and the facts which we have just described, it seems to us advisable that the Secretary of State might conveniently discuss this question further with the Government of Burma before the Constitution Act comes into force, and that the projected enquiry which is proposed in paragraph 287 in the case of the All-India Services in India should not be extended to Burma until the appropriate ratio between British and Burmans in the I.C.S. and Police has been further investigated.")

The amendment, by leave of the Committee, is withdrawn.

Paragraphs 439 to 442 are again postponed.

It is moved by Sir Reginald Craddock. Page 242, after paragraph 442, to insert the following new paragraph :—

(" 442A. This is a convenient point at which we may refer to questions connected with the domiciled community, including Anglo-Indians and Anglo-Burmans in respect both to education and to their fitness for appointments in the various Services—the latter depending very greatly on the efficiency of the former.

" Owing to the fact that the progress of English education among the Burmese was far slower than in India, Anglo-Indians are still to be found in some of the higher posts in the Provincial and Subordinate Services in Burma, in the Teaching Profession, in the higher clerical posts, as well as in the Central Services still under control by the Government of India. Over the whole Province the recent census shows that there are altogether 19,200 Anglo-Indians, of whom just over half are concentrated in Rangoon. Hitherto their chief competitors have been Indians imported from India, and not Burmese at all, and it is obvious that any rapid

drop in the number of Anglo-Indians employed in the Land Records and Excise Departments, as well as in the Present Central Services which will be transferred to the control of the Government of Burma, would inflict an unmerited blow on this community, for they would not merely lose these posts but also the means which have enabled them to pay for the education of their children It is important, therefor , for this, among other reasons, that the standard of European education should be maintained In India, few Indian parents wish to send their children to Christian schools for European and Anglo Indian children but for some years past Burmese parents have shown an increasing liking for schools of this kind, and the percentage of children of other races who have been admitted into those schools has increased considerably in the last ten years The teachers in these schools have to be paid higher salaries, and they fulfil the natural wish of European and Anglo Indian parents that their children should be brought up in a Christain school and taught by teachers whose mother tongue is English If, therefore, pupils of other races and creeds should, under the new Constitution, be further increased, the whole character of these Institutions will be practically destroyed. It was represented to us that the Anglo Indians felt that the tests imposed upon Anglo Indian children in the matter of proficiency in Burmese tended to be too severe upon children whose mother tongue was English, and that they were thereby prejudiced in the matter of becoming qualified for employment in the public services These are matters in which it is not possible for us to enter upon any detail, but we consider that both the education and the employment of Anglo Indians should engage th special attention of the Governor in order that this deserving class should not be subjected to any handicaps either in the quality of their education or their eligibility for posts in the Government service It would further be necessary for regulations to be made laying down the percentage of appointments in railways posts and telegraphs, and the customs' service, which could fittingly be reserved for members of the Anglo-Indian community ")

The amendment, by leave of the Committee, is withdrawn.

Paragraphs 443 to 453 are again postponed.

Ordered, that the Committee be adjourned to Monday next at half-past Four o'clock

Die Lunae 30° Julii 1934.

Present:

Lord Archbishop of Canterbury	Mr Butler
Marquess of Salisbury.	Major Cadogan.
Marquess of Zetland	Sir Austen Chamberlain.
Marquess of Linlithgow.	Sir Reginald Craddock.
Marquess of Reading	Mr Davidson
Earl of Derby	Mr Foot
Earl Peel	Sir Samuel Hoare.
Viscount Halifax	Mr Morgan Jones
Lord Middleton	Sir Joseph Nall
Lord Ker (M Lothian)	Lord Eustace Percy
Lord Hardinge of Penshurst	Sir John Wardlaw Milne.
Lord Snell	Earl Winterton
Lord Rankeillour	
Lord Hutchison of Montrose	

The Marquess of Linlithgow in the Chair

The Order of Adjournment is read

The Proceedings of Friday last are read

Paragraph 1 is again postponed

Paragraph 2 is again read

It is moved by the Lord Ker (M Lothian). Page 3, lines 27 and 28, to leave out from (" and ") in line 27 to (" dialects ") in line 28 and to insert (" peoples, speaking about 12 main languages and over two hundred minor ")

The amendment, by leave of the Committee, is withdrawn

It is moved by the Marquess of Linlithgow Page 3 lines 27 and 28, to leave out (" over two hundred different languages or dialects ") and to insert (" a dozen main languages and over two hundred minor dialects ")

The same is agreed to

It is moved by the Earl Peel Page 3, line 33, to leave out (" of race ").
The same is agreed to

It is moved by the Lord Ker (M Lothian) and the Marquess of Linlithgow. Page 3, line 35, to leave out (" singular ")

The same is agreed to.

It is moved by the Lord Ker (M Lothian) and the Marquess of Linlithgow. Page 4, line 5, after (" vast ") to insert (" and still rapidly growing ")

The same is agreed to

Paragraph 2 is again read, as amended

The further consideration of paragraph 2 is postponed.

Paragraph 3 is again read

It is moved by Sir Samuel Hoare and Mr Butler. Page 4, line 14, to leave out (" 128 ") and to insert (" 126 ")

The same is agreed to

All amendments are to the Draft Report (*vide supra*, paras 1—42B, pp 470— 491; and *vide supra*, paras 43—153, pp 64—253), and NOT to the Report as published (Vol 1, Part 1)

A Key is attached (*see* pp 521—544), showing on which pages of the Proceedings amendments to each paragraph can be found

It is moved by Sir John Wardlaw-Milne Page 4, line 17, to leave out ("often") and to insert ("sometimes")

The same is agreed to

Paragraph 3 is again read as amended

The further consideration of paragraph 3 is postponed

Paragraph 4 is again postponed

Paragraph 5 is again read

It is moved by the Earl Peel Page 5, line 3, after ("no") to insert ("constitutional")

The same is agreed to

Paragraph 5 is again read as amended

The further consideration of paragraph 5 is postponed

Paragraph 6 is again read

It is moved by the Earl Winterton Page 5, lines 12 and 13 leave out from the beginning of the paragraph to ("It") in line 13 and to insert ("The "record of the British rule in India is well known Though we claim for it "neither infallibility nor perfection, since like all systems of Government, "it has, at times, fallen into error it is well to remember the greatness of its "achievement")

The same is agreed to

It is moved by the Lord Eustace Percy Page 5, line 19, to leave out ("incorruptible magistracy") and to insert ("upright judiciary")

The same is agreed to

It is moved by the Marquess of Reading, the Lord Ker (M Lothian) and Mr Foot Page 5 lines 21 to 24 to leave out from ("labours") in line 21 to ("The") in line 24 and to insert ("The ultimate agency in achieving these "result has been the power wielded by Parliament The British element in "the administrative and judicial services has always been numerically "small")

The same is agreed to

Paragraph 6 is again read as amended

The further consideration of paragraph 6 is postponed

Paragraph 7 is again read

It is moved by the Lord Ker (M. Lothian) and Mr Foot Page 5, line 32, to leave out ("Moguls") and to insert ("earlier Hindu kings like Asoka"), and after the third ("the") to insert ("Mogul")

The same are agreed to

It is moved by the Lord Ker (M Lothian) and Mr Foot Line 44 to leave out from ("Akbar") to the end of the sentence and to insert ("and his immediate successors disappeared with Aurungzeb")

The same is agreed to
Paragraph 7 is again read, as amended
The further consideration of paragraph 7 is postponed
Paragraph 8 is again read

It is moved by the Lord Ker (M Lothian) and Mr Foot. Page 6, line 8, to leave out ("the whole apparatus of")

The same is agreed to

It is moved by the Marquess of Linlithgow Page 6, line 14, to leave out ("British occupation") and to insert ("establishment of the unity of India "under the British Crown")

The same is agreed to

Paragraph 8 is again read, as amended.

The furt er consideration o' paragraph 8 is postponed.

Paragraph 9 is again read.

It is moved by t e Lord Ker (M. Loth an) and Mr. Foot. Page 6, line 15, after ("rule") to insert ("gradually")

The same is agreed to.

It is moved by the Earl Winterton. Page 6, lines 15 to 17, to leave out from ("rule") in line 15 to the end of the sentence and to insert ("and with "the aid and co-operation of many Indians, created a new and stable polity.")

The same is agreed to.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 6, line 18, to leave out ("with one another and").

The same is agreed to.

It is moved by the Lord Ker (M. Lothian) and Mr. Foot. Page 6, line 24' to leave out ("intellectual") and to insert ("educational").

The same is agreed to.

Paragraph 9 is again read, as amended.

The further consideration of paragraph is postponed.

Paragraphs 10 to 42B are again read.

It is moved by the Marquess of Salisbury, the Lord Middleton, the Lord Rankeillour, Sir Reginald Craddock, and Sir Joseph Nall. Pages 6 to 20g, to leave out paragraphs 10 to 42B inclusive, and to insert the following new paragraphs –

("10. We have emphasized the magnitude of the British achievement in India because it is this very achievement that has created the problem which we have been commissioned by Parliament to consider. Opinions differ profoundly as to the proper solution of this problem and as to the extent to which self-government should go and the conditions under which it should be approached. We would emphasise the necessity of a gradual and cautious advance. We do not underrate the aspirations represented by the members of the Indian Delegation who assisted us, but beyond a vague spirit of unrest, little more than a stiffening of Asiatic opinion against the hitherto unchallenged domination of the West, we doubt whether these Constitutional desires exist in India except amongst a small politically-minded intelligentsia. Amongst these it is natural enough, being the result of a European education which this Country has given them. But education is not the same thing as experience and even this small element of the Indian population has never had the opportunity of acquiring the political experience which is our own inheritance. It was bearing in mind these circumstances that Parliament passed the Act of 1919. According to the language of the preamble of that Act the advance to self-government, the ultimate objective, was to be tentative, and by Section 41 it was indeed provided that according as experience might teach us, that advance might proceed further, or be checked, or even retraced, in the future. Perhaps the greatest danger in the way of this spirit of caution, as all students of this problem would we think agree, lies in relying upon a false analogy with Parliamentary evolution in this Country. It has even been suggested that because the form of the particular government which has been successful in conferring upon India the great benefits above described—that is the government of England—is essentially a responsible government, this constitutes an arg ment for trusting the future of India to an Indian responsible government. This argument is wholly misleading, because the true source of these benefits was the experience and inherited

capacity of the British people Neither is it profitable to suggest that if India be denied full self-government the uninstructed mass of her people, as in certain Western nations, will attribute any lack of prosperity that the future may have in store to this denial It would be at least as true to say that when after the granting of these reforms the Indian cultivators note the agitation which will ensue and mark the change which in greater or less degree is too likely to follow, from justice to injustice, from economy to extravagance, from efficiency to inefficiency, they may question the wisdom which has produced these results These analogies are most unsafe The success of our own form of government depends in the first place upon the British temperament. As Lord Bryce remarked, "the English constitution which we admire as a masterpiece of delicate equipoises and complicated mechanism would anywhere but in England be full of difficulties and dangers It works by a body of understanding which no writer can formulate and on habits which centuries have been needed to instil" It could not work without this understanding, this established custom of our people, or as we should prefer to call it in this connection, their general consent. Safeguards are no doubt necessary in India, but they are in startling contrast to this general consent, and there is in reality no analogy between a government which depends upon the use of safeguards and a government which depends upon established custom It follows, as the Statutory Commission has indicated that our model, the Westminster model, for Indian reform should be avoided And in particular we should be on our guard against a feature in the Westminster model, specially noted in their Report as inappropriate for India, we mean the feature in our system 'that the government is liable to be brought to an end at any moment by the vote of the legislature' For how can a Governor General in the discharge of his reserved functions and his special responsibilities resist such a form of pressure by the legislature? There is another feature which removes the case of India poles asunder from the British model We work with political parties There are no such things in India These parties in Great Britain are organised but between them there is a large unorganised mobile body of political opinion owing no allegiance to any party and therefore able by its instinctive reaction against extravagant movements on one side or the other to keep the vessel on an even keel Not only is this mobile body absent in India but under the scheme before the Committee there would almost be an impossibility that it should be formed With the method of indirect election, subject to the compelling force of the Communal Award, the electors will be actually prevented from being mobile and from voting for anybody outside their own creed

"11 But let us turn from these contrasts with British experience to the teaching which even Indian experience can give us The present dyarchic system in the Provinces, as the Commission has pointed out, though designed to develop a sense of responsibility has tended to encourage a wholly different attitude It has been universally condemned and as will be seen in the body of our Report we are recommending its abolition in the new Provincial Constitutions It is therefore a grave question whether we should re create it in the Centre involved as it must be in the reservation of the defence services to the Viceroy and outside the authority of a responsible Ministry As the Statutory Commission pointed out it is not in the counsels of government that the practical difficulty in the way of achieving the objective of dyarchy and a clear demarcation of responsibility arise. It is the legislature which tends to be demoralised by dyarchy

"As long as dyarchy continues, it is inevitable that the elected members of the legislature should tend to show an exaggerated hostility to the work of the reserved half of the Government which they may

criticise but cannot control. If money is wanted for "nation-building" services, the temptation to blame reserved departments for spending too much is far more attractive than the alternative course of imposing new taxes. And if new taxes were imposed, where is the guarantee that the proceeds would be devoted to the purpose intended? A legislature with Ministers responsible to it for certain departments of government naturally looks across the boundary to the forbidden territory reserved for a different system of administration, and loses much of the value of its control over ministerial policy by indulging in bouts of criticism of departments which are not in the hands of Ministers." (Pages 32 and 33 of Vol. II of the Stat. Comm. Report.)

"12. These things must be weighed before we form our conclusions in this report. Again, in framing our proposals we must bear in mind anomalies which face us in the problem of an All-India federation. The Indian States are wholly different in status and character from the Provinces of British India and they are not prepared to federate on the same terms as it is proposed to apply to the Provinces. The subjects of the Prince will continue to owe allegiance to him and only a limited obedience to the federal responsible government. Moreover, the representatives of the States would have to be empowered to vote upon interests which are purely British-Indian, whereas the British-India representatives can have no corresponding power as to the States. These anomalies are not formal. In India they lie at the root of the federal problem. Unequal powers are the breeding-ground of temptation to intrigue, since units which have got powers which others do not possess may be induced to exercise them or not to exercise them for a *quid pro quo* which could not be justified on merit.

"13. Federal finance presents more than one example of anomalies which in a federal scheme must be encountered. In the first place Income Tax legislation would be an instance of the unequal powers to which we have just referred. It is to be paid by British India, but, so far as powers go, can be voted upon by the representatives of the States who will not pay it. In the second place in the contemplated scheme Income Tax is to be shared between the Federation and the Provinces. The division between them is to be according to a numerical proportion; evidently a most unsatisfactory method, because it would not follow that when the Federation require an increase of revenue the Provinces will also require one; or conversely when the Federation could afford a reduction that the Provinces could reasonably follow its example. But after prolonged consideration we have been unable to find any better plan in a federal scheme. Of course it is true that as Indian finance stands at present this division ought to be suspended, since the federation will require all the revenue from Income Tax it can get. But though it ought to be suspended there is some doubt whether this suspension will in fact take place, especially if as is suggested the States were not to use their power to vote upon British-India issues. Upon the position of the Income Tax the method of electing the British-India representatives in the central legislature must have a remarkable reaction. We have been obliged to discard the method of direct election which is proposed in the White Paper. We found it to be physically impossible and have been obliged to fall back upon indirect election. And the form we have found it necessary to entertain is that the British-India representatives shall be the nominees of the majorities of the Provincial Assemblies, that is to say, they will practically act under a mandate from these majorities. It follows that in the Central Legislature the British-India representatives in deciding upon the Income Tax will look upon it with Provincial eyes and will determine the issues largely, if not mainly, according to Provincial

interests. This danger was foreseen when we adopted indirect election: though we had no other choice. But the inter action of indirect election upon Income Tax legislation involves another anomaly which predicates the most cautious advance in federal self-government.

"14. These are not the only reasons why we repeat that the advance of self government should be, as the Act of 1919 intended it to be, gradual and cautious. The communal difficulty stands in the middle of the path. We are confronted with the age-old antagonism of Hindu and Mohammedan, representatives not only of two religions but of two civilisations, with numerous self-contained and exclusive minorities all a prey to anxiety for their future and profoundly suspicious of the majority and of one another and with the rigid divisions of caste, itself a denial of every democratic principle. In these circumstances though communal representation must be accepted as inevitable at the present time it is a strange commentary on some of the democratic provisions to which we have listened We lay stress on these facts because in truth they are in the essence of the problem and we should be doing no good service to India by glazing them over. In the face of these difficulties those upon whom responsibility will rest, whether they be in India or this Country, should have all reasonable scope for overcoming them by the method of trial and error. But for this purpose it is necessary to constitute adequate machinery for redress. For this reason we are recommending the provision of full authority in the Governor-General to give directions in all matters over which the Provincial Governors have a discretion. Undoubtedly he may be hampered in correcting Provincial mistakes by Ministers who are supported by members representing Provincial Assemblies. That is inevitable with a Central responsible government and with indirect election of the legislature. But we think it very important to secure what power we can for the Governor-General, though we recognize that the burden thrown upon him by our proposals requires an almost unexampled degree of ability and versatility both of himself and his personal staff. Nevertheless, we are not sure that it might not be requisite to add still further to the load, and it may well be that in the new Constitution he ought to be furnished with overriding ordinance powers in the case of the Provinces, as we are proposing that he should possess in the case of the Centre, to use when necessity requires. These ordinance powers, in the case of the Centre if not in the Provinces, are certainly necessary. We agree, as has been contended, that under the present constitution the central government is unduly weak. The ordinance power would we hope serve to protect the future central power from any loss of prestige such as it is said with some truth that the present Government of India may be incurring. But what is much more to be feared in any future constitution than the loss of prestige by the Government is the loss of prestige by the Governor-General. We are not without anxiety that with a responsible government he would be exposed naked to the pressure not only of the legislature but even of his own Ministers where he differs from them, in the whole field of the reserved services, in his relations with the Princes, and in the discharge of his special responsibilities when he feels called upon to use them.

"15. It is necessary to add that in considering the reforms which we are about to recommend to Parliament we should find a British-India Federation to present even greater difficulties than a federation which embraces the States as well. Indeed, we believe that the feeling amongst our colleagues against a purely British-India Federal Government is overwhelming, and for these reasons. There is no question that the States have some grounds for complaining of the want of attention paid to their views by the Government of India in the past. A British-India Federal Centre would have to deal, as now, with matters intimately

affecting the States without giving them any effective voice in its deliberations. If the States have reason to complain of the treatment of their interests by the present Government of India, the treatment of these by Ministers responsible to a purely British-India electorate could hardly fail to lead to serious friction. Yet the very fact of this inevitable conclusion reacts upon the whole problem. We are bound to contemplate the position that would ensue if the full conditions of an All-India Federal Constitution should have been enacted and thereupon the Princes, or a sufficient number of them, decline to accede It is evident that in these circumstances the demand of the politically minded classes in British India to enter into the federation which the Princes had declined, but which in all its detail would be already on the Statute book, would be very difficult to resist This reflection adds a final reason for cautious advance in prescribing, as we now proceed to do, the extent of self-government in India which it would be right to recommend ")

Objected to.

On Question :-

Contents (5).	Not Contents (19).
Marquess of Salisbury.	Lord Archbishop of Canterbury.
Lord Middleton.	Marquess of Zetland.
Lord Rankeillour.	Marquess of Linlithgow
Sir Reginald Craddock.	Marquess of Reading.
Sir Joseph Nall.	Earl of Derby.
	Earl Peel
	Viscount Halifax.
	Lord Ker (M. Lothian)
	Lord Hardinge of Penshurst.
	Lord Snell
	Lord Hutchison of Montrose.
	Mr. Butler.
	Major Cadogan.
	Mr. Davidson.
	Mr. Foot.
	Sir Samuel Hoare.
	Lord Eustace Percy.
	Sir John Wardlaw-Milne.
	Earl Winterton.

The said amendment is disagreed to.

Paragraph 10 is again read.

It is moved by the Earl Winterton. Page 6, lines 40 to 42, to leave out from (" has ") in line 40 to the end of the sentence and to insert :—(" enabled " Indians, who take an interest in politics and public affairs, to turn their " attention to a subject which has ever possessed a particular fascination for " persons of quick and ingenious mind - what should be the ideal form of " Government for their country.")

The amendment, by leave of the Committee, is withdrawn.

It is moved by the Lord Eustace Percy. Page 6, lines 40 to 42, to leave out from (" has ") in line 40 to the end of line 42 and to insert (" set Indians " free to turn their minds to other things, and in particular to the broader " political and economic interests of their country. Finally by directing " their attention ").

The same is agreed to.

It is moved by the Lord Ker (M. Lothian) and Mr Foot Line 47, after ("self-government,") to insert ("inasmuch as it is the mark of a self-respecting and self-reliant people to shoulder the burdens and responsibilities of "their own government.")

The amendment by leave of the Committee is withdrawn

Paragraph 10 is again read, as amended

The further consideration of paragraph 10 is postponed

Paragraph 11 is again read.

It is moved by Sir Reginald Craddock Page 7 line 32 to leave out ("receptive of political arguments") and to insert ("susceptible to political "agitation")

The same is agreed to

Paragraph 11 is again read, as amended

The further consideration of paragraph 11 is postponed

Paragraph 12 is again read

It is moved by the Marquess of Linlithgow Page 8 line 1 to leave out ("council") and to insert ("counsel")

The same is agreed to

Paragraph 12 is again read, as amended

The further consideration of paragraph 12 is postponed

Paragraph 13 is again read

It is moved by the Marquess of Linlithgow Page 9, line 20, to leave out ("beliefs") and to insert ("belief")

The same is agreed to

Paragraph 13 is again read, as amended

The further consideration of paragraph 13 is postponed

Paragraphs 15 and 16 are again postponed

Paragraph 17 is again read

It is moved by the Marquess of Reading the Lord Ker (M Lothian) and Mr Foot Page 11 lines 22 and 23 to leave out from ("Provinces") in line 22 to ("has") in line 23 and to insert ("was designed to develop a sense "of responsibility and it has in fact given a considerable number of public "men experience of the responsibilities of government either as Ministers or "executive Councillors or as members of the majority on which Ministers "have relied for support in the Legislatures On the other hand the dyarchic "system")

The same is agreed to

It is moved by the Lord Ker (M Lothian), the Marquess of Reading, and Mr. Foot Page 11, line 25 after ("character") to insert ("born "of experience")

The same is agreed to

Paragraph 17 is again read, as amended

The further consideration of paragraph 17 is postponed

Paragraph 18 is again read

It is moved by the Marquess of Linlithgow Page 11, line 40, to leave out ("material and intellectual")

The same is agreed to.

It is moved by the Lord Eustace Percy Page 11 line 44 to page 12, line 2, to leave out from the beginning of line 44 on page 11 to ("can") in line 2 on page 12 and to insert ("This attitude of non interference has not, " indeed prevented the Government of India from introducing reforms in " many matters to use Lord Lansdowne's words where demands preferred " ' in the name of religion would lead to practices inconsistent with individual " ' safety and the public peace and condemned by every system of law and " ' morality in the world ' Yet it must be recognised that, in a country where " the habits and customs of the people are so closely bound up with their " religious beliefs this attitude however justifiable it may have been, has " sometimes had the result of making it difficult for the Government to carry " into effect social legislation in such matters (to name only two obvious " instances) as child marriage and the problem of the untouchables It has " become increasingly evident in recent years that the obstacles to such " legislation)

The same is agreed to

Paragraph 18 is again read as amended

The further consideration of paragraph 18 is postponed

Paragraph 19 is again read

It is moved by the Viscount Halifax Page 12 line 25 after ("future") to insert ("In the special circumstances of India")

The same is agreed to

It is moved by the Viscount Halifax Page 12 line 26 to leave out ("expressed") and to insert ("reinforced")

The same is agreed to

Paragraph 19 is again read as amended

The further consideration of paragraph 19 is postponed

Paragraph 20 is again read

It is moved by the Lord Eustace Percy Page 12 line 32 after ("life") to insert

("It must give full weight indeed to the testimony of the Statutory Commission that in spite of the disadvantages of dyarchy on which the Commission laid such stress Indians have shown since 1921 a marked capacity for the orderly conduct of Parliamentary business a capacity which has grown steadily with the growth of their experience We cannot doubt that this apprenticeship in Parliamentary methods has profoundly affected the whole character of Indian public life, both by widening the circle of those who have had practical contact with the affairs of government and by stimulating the growth of a public conscience amongst the educated classes as a whole But other facts must also be frankly recognized")

The same is agreed to

It is moved by the Lord Eustace Percy Page 12 line 36 to leave out ("two organized,") and to insert ("great")

The same is agreed to

It is moved by the Lord Snell Page 12, line 37 to leave out from ("each") to the second ("and") and to insert ("desiring to act with public spirit and in good faith,")

The same is agreed to

It is moved by the Lord Ker (M Lothian) Page 13, line 2, to leave out from ("caste") to ("In").

The amendment, by leave of the Committee, is withdrawn

It is moved by Sir Austen Chamberlain. Page 13, line 2, to leave out from ("itself") to ("democratic") and to insert ("inconsistent with")

The same is agreed to

Paragraph 20 is again read, as amended

The further consideration of paragraph 20 is postponed.

Paragraphs 21 to 23 are again postponed

Paragraph 24 is again read.

It is moved by the Lord Eustace Percy Page 15 lines 4 and 5 after ("a") in line 4 to insert ("strong and impartial") and to leave out ("at once dis-"interested and incorruptible") in lines 4 and 5

The same are agreed to

It is moved by the Lord Eustace Percy Page 15, lines 6 and 7, to leave out from ("prized") in line 6 to ("In") in line 7

The same is agreed to.

Paragraph 24 is again read, as amended

The further consideration of paragraph 24 is postponed

Paragraph 25 is again read

It is moved by the Lord Ker (M Lothian) and Mr Foot Page 15, lines 30 and 31, to leave out from ("whole,") in line 30 to the end of the sentence and to insert ("and for intervention should the responsible Ministries and "legislatures fail in their duty")

The amendment, by leave of the Committee is withdrawn

Paragraph 25 is again read

The further consideration of paragraph 25 is postponed

Paragraph 26 is again read.

It is moved by the Lord Eustace Percy Page 16, lines 16 to 18, to leave out from ("India") in line 16 to the end of the paragraph

The same is agreed to.

Paragraph 26 is again read

The further consideration of paragraph 26 is postponed.

Paragraphs 27 to 29 are again postponed

Paragraph 30 is again read

It is moved by the Lord Ker (M Lothian) and Mr Foot Page 18, lines 29 and 30, to leave out from ("to") in line 29 to the end of line 30 and to insert ("give steadfast support to strong and stable central government").

The same is agreed to

Paragraph 30 is again read as amended.

The further consideration of paragraph 30 is postponed.

Paragraph 31 is again read

It is moved by Sir John Wardlaw Milne Page 19 line 26 to leave out ("incoherence") and to insert ("confusion")

The same is agreed to

Paragraph 31 is again read, as amended

The further consideration of paragraph 31 is postponed

Paragraphs 32 to 36 are again read and postponed

Paragraph 37 is again read.

It is moved by the Marquess of Reading, the Lord Ker (M. Lothian), and Mr. Foot. Page 20b, lines 24 and 25, to leave out from ("both") to the end of the sentence.

The same is agreed to.

It is moved by the Marquess of Reading, the Lord Ker (M. Lothian), and Mr Foot. Page 20b, line 34, at the end to insert ("Nor do we think that the " political life of India can safely be divided into watertight compartments. " Important problems in the field of social reform will have to be dealt with " by the central as well as by the provincial legislatures. The control of the " economic life of India will depend more upon the federal legislature than " upon the provinces. To place full responsibility for these subjects upon " Indian Ministers and legislatures in the provinces, while imposing the " responsibility for them in the centre on the Governor General subject to " constant criticism by a legislature which is not responsible seems to us " likely to produce the maximum of friction if it did not leave to deadlock.")

The amendment, by leave of the Committee, is withdrawn.

Paragraph 37 is again read, as amended.

The further consideration of paragraph 37 is postponed.

Paragraph 38 is again read.

It is moved by the Marquess of Reading, the Lord Ker (M. Lothian), and Mr Foot. Page 20b, line 35, to leave out ("Lastly, the line can") and to insert ("We think therefore that the third of the three possible lines of " division is by far the best, namely that the line should").

The amendment, by leave of the Committee, is withdrawn.

It is moved by the Marquess of Reading, the Lord Ker (M. Lothian) and Mr Foot. Page 20b, line 40, after ("Departments") to insert ("This would " be, in effect, to make Indians responsible for policy over the whole field of " internal government while reserving to the Governor General responsibility " for defence and foreign policy and imposing upon the Governor General and " the Governors a special responsibility for safeguarding law and order, the " rights of minorities, the ultimate stability of the finances, the legitimate " interests of the Services and a number of other matters over the whole field " of government, if, and only if the responsible Ministries and legislatures " fail to discharge the responsibility placed on them under the new " constitution.")

The amendment, by leave of the Committee, is withdrawn.

It is moved by the Marquess of Reading, the Lord Ker (M. Lothian), and Mr Foot. Page 20c, line 24, to leave out ("with much force").

The amendment, by leave of the Committee, is withdrawn.

Paragraph 38 is again read.

The further consideration of paragraph 38 is postponed.

Paragraph 39 is again read.

It is moved by the Lord Ker (M. Lothian), the Marquess of Reading, and Mr Foot. Page 20c, line 41, after ("finance") to insert ("The existence of a " large standing charge for defence does not lessen the financial responsibility " of Ministers. Far the greater part of most national budgets are, in effect, " unalterable because they are the results of commitments arising out of " the past in the field of foreign relations or of social reform. The margin of " discretion which is available to Ministers anywhere in increasing or re- " ducing taxation or altering expenditure is usually small and this margin, " in India, will be within the control of Ministers subject to the Governor- " General's special responsibility in the financial sphere. Ministers will " naturally wish to save money on defence in order that they may spend it

"on 'nation building' departments under their own charge. But in point "of fact the cost of Indian defence, though a large proportion of the Central "budget is, compared with the whole of the resources of India, central "and provincial, considerably less than the cost of defence in some other "countries containing a smaller population than that of India. We believe "that responsible Indian Ministers will be not less anxious for adequate "defence that the Governor-General and will usually after discussion with "him, support his view of what is necessary and will be able to convince their "following in the legislature that it is sound.")

The same is agreed to.

Paragraph 39 is again read, as amended.

The further consideration of paragraph 39 is postponed.

Paragraph 40 is again postponed.

Paragraph 41 is again read.

It is moved by the Marquess of Linlithgow. Page 20e, line 26, to leave out (" Whose opinions are ") and to insert (" their opinions have been ").

The same is agreed to.

It is moved by the Marquess of Linlithgow. Page 20e, lines 26 and 27, to leave out (" who are ") and to insert (" they have shown themselves ").

The same is agreed to.

Paragraph 41 is again read, as amended.

The further consideration of paragraph 41 is postponed.

Paragraph 42 is again postponed.

Paragraph 42A is again read.

It is moved by the Lord Eustace Percy. Page 20g, line 13, after (" plain ") to insert (" The plea put forward by Indian public men on behalf of India is "essentially a plea to be allowed the opportunity of applying principles and "doctrines which England herself has taught; and all sections of public "opinion in this country are agreed in principle that this plea should be "admitted.")

The same is agreed to.

It is moved by the Lord Eustace Percy. Page 20g, line 21, after (" rejected,") to insert (" the rejection will be generally regarded in India "as a denial of the whole plea and ")

The same is agreed to.

It is moved by the Lord Eustace Percy. Page 20g line 23 after the first (" the ") to insert (" measure of harmony achieved in British India by the ")

The same is agreed to.

Paragraph 42A is again read, as amended.

The further consideration of paragraph 42A is postponed.

Paragraph 42B is again postponed.

Ordered, that the Committee be adjourned till to-morrow at half-past Ten o'clock.

Die Martis 31° Julii 1934

Present :

LORD ARCHBISHOP OF CANTERBURY	MR. ATTLEE.
MARQUESS OF SALISBURY.	MR. BUTLER.
MARQUESS OF ZETLAND.	MAJOR CADOGAN.
MARQUESS OF LINLITHGOW.	SIR AUSTEN CHAMBERLAIN.
MARQUESS OF READING.	MR. COCKS.
EARL OF DERBY.	SIR REGINALD CRADDOCK.
EARL PEEL.	MR. DAVIDSON.
VISCOUNT HALIFAX.	MR. FOOT.
LORD MIDDLETON.	SIR SAMUEL HOARE.
LORD KER (M. LOTHIAN).	MR. MORGAN JONES.
LORD HARDINGE OF PENSHURST.	LORD EUSTACE PERCY.
LORD SNELL	SIR JOHN WARDLAW-MILNE.
LORD RANKEILLOUR.	EARL WINTERTON.
LORD HUTCHISON OF MONTROSE.	

THE MARQUESS OF LINLITHGOW in the Chair

The Order of Adjournment is read.

The Proceedings of yesterday are read.

Paragraphs 43 to 63 are again postponed.

Paragraph 64 is again read.

It is moved by the Lord Hardinge of Penshurst Page 30, line 23, to leave out from (" in ") in line 23 to (" to ") in line 24 and to insert (" the " exercise of any powers conferred on him by the Constitution Act, except " in relation to such matters as will be left by that Act ").

The same is agreed to.

It is moved by the Lord Hardinge of Penshurst. Page 30, line 39, after (" practice.") to insert (" It follows from what we have said above that the " Ministers will not be concerned with the appointment of the Governor " himself ").

The same is agreed to.

Paragraph 64 is again read, as amended.

The further consideration of paragraph 64 is postponed.

Paragraphs 65 to 132 are again postponed.

Paragraph 133 is again read.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 66, line 6, after (" e.g.") to insert (" by allowing women to make application by letter " (responsibility for satisfying the registering officer of their eligibility for " enrolment resting with the applicant) ").

The same is agreed to.

Paragraph 133 is again read, as amended.

The further consideration of paragraph 133 is postponed

Paragraphs 134 to 161 are again postponed.

Paragraph 162 is again read.

It is moved by the Lord Hardinge of Penshurst. Page 83, line 4, at the end to insert (" It is hardly necessary to add that Ministers will not be concerned with the appointment of the Governor-General himself.")

The same is agreed to.

Paragraph 162 is again read, as amended.

The further consideration of paragraph 162 is postponed.

Paragraphs 163 to 173 are again postponed.

All amendments are to the Draft Report (*vide infra*, paras. 1 - 42B, pp. 470—491; and *vide supra*, paras. 43—453, pp. 64—253) and NOT to the Report as published. (Vol. I, Part I).

A Key is attached (see pp. 521—544), showing on which pages of the Proceedings amendments to each paragraph can be found.

Paragraph 174 is again read.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 88, line 32, at the end to insert ("It has been urged upon us that, in order to build up an "informed opinion upon Defence questions, a statutory Committee of the "Legislature should be established. We understand that, outside the formal "opportunities of discussing Defence questions on such occasions as the "Defence Budget, opportunities are already given to members of the Legis- "lature to inform themselves upon Army questions; and, provided that the extent and methods of consultation are clearly understood to rest in the discretion of the Governor-General, we see no objection to the formation of any Committee or Committees that the Federal Government and Legislature may consider useful. We feel, however, that this is essentially a question to be settled by the Legislature and not by the Constitution Act.")

The same is agreed to.

Paragraph 174 is again read as amended.

The further consideration of paragraph 174 is postponed.

Paragraphs 175 to 203 are again postponed.

Paragraph 204 is again read.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 102, line 24, to leave out ("nine") and to insert ("six").

Objected to.

On Question —

Contents (4).	Not Contents (21).
Earl Peel.	Lord Archbishop of Canterbury.
Mr. Butler.	Marquess of Salisbury.
Sir Samuel Hoare.	Marquess of Zetland.
Earl Winterton.	Marquess of Linlithgow.
	Marquess of Reading.
	Earl of Derby.
	Viscount Halifax.
	Lord Middleton.
	Lord Ker (M. Lothian).
	Lord Hardinge of Penshurst.
	Lord Snell.
	Lord Rankeillour.
	Lord Hutchison of Montrose.
	Mr Attlee.
	Major Cadogan.
	Sir Austen Chamberlain.
	Sir Reginald Craddock.
	Mr. Davidson.
	Mr. Foot.
	Lord Eustace Percy.
	Sir John Wardlaw-Milne.

The said amendment is disagreed to.

Paragraph 204 is again read.

The further consideration of paragraph 204 is postponed.

Paragraphs 205 to 227 are again postponed.

The Appendix (II) is again read.

It is moved by Mr. Butler and Sir Samuel Hoare. Page 115, line 15, after ("House.") to insert ("The question of special provision for the Depressed Classes among the General seats requires consideration especially in relation to the Central Provinces").

The same is agreed to.

The Appendix (II) is again read, as amended.

The further consideration of Appendix (II) is postponed.

The Appendix (III) is again postponed.

Paragraphs 228 to 330 are again postponed.

Paragraph 331 is again read

It is moved by the Lord Eustace Percy Page 183, lines 2 to 6, to leave out from (" dominion ") in line 2 to (" Lastly ") in line 6

The same is agreed to

Paragraph 331 is again read, as amended

The further consideration of paragraph 331 is postponed

Paragraph 332 is again read

It is moved by the Marquess of Linlithgow Page 183, in the footnote after (" etc ") to insert (" by whomsoever made ")

The same is agreed to

Paragraph 332 is again read, as amended

The further consideration of paragraph 332 is postponed

Paragraphs 333 to 336 are again postponed

Paragraph 337 is again read

It is moved by the Marquess of Linlithgow Page 184, line 37, to leave out from (" that ") to (" shall ") and to insert (" a proportion of the directors " (which should, we think, not exceed one half of the total number) ")

The same is agreed to.

Paragraph 337 is again read, as amended

The further consideration of paragraph 337 is postponed

Paragraph 388 is again read

It is moved by the Marquess of Linlithgow. Page 184, line 13, to page 185, line 1, to leave out from the beginning to the paragraph to (" But ") in line 1, page 185

The same is agreed to

It is moved by the Marquess of Linlithgow Page 185, line 2, to leave out (" clearly ") and to insert (" still ")

The same is agreed to

It is moved by the Marquess of Linlithgow Page 185, lines 3 and 4, to leave out (" in accordance with these statutory prohibitions ")

The same is agreed to.

It is moved by the Marquess of Linlithgow Page 185, line 28, to leave out (" found themselves strictly bound ") and to insert (" regarded the " exercise of their discretion as restricted ")

The same is agreed to

It is moved by the Marquess of Linlithgow Page 185 line 29 after (" that ") to insert (" the Instrument of Instructions of the Governor " General and the Governor should require him,")

The same is agreed to.

It is moved by the Marquess of Linlithgow Page 185, line 30, to leave out (" the Governor General or a Governor ") and to insert (" he ")

The same is agreed to

It is moved by the Marquess of Linlithgow Page 185, lines 32 and 33 to leave out (" he should be instructed ")

The same is agreed to

It is moved by the Marquess of Linlithgow Page 185, line 34, at the end to insert (" We need hardly add that the effect of our recommendations " for the statutory prohibition of certain specified forms of discrimination " would lay open to challenge in the Courts as being *ultra vires* any legislative " enactment which is inconsistent with these prohibitions, even if the " Governor-General or the Governor has assented to it ")

The same is agreed to.

Paragraph 338 is again read, as amended

The further consideration of paragraph 338 is postponed.

Paragraph 339 is again read.

It is moved by Sir John Wardlaw Milne Page 185, line 42, to page 186, line 5, to leave out from ("suggestion") in line 42, page 185, to ("But") in line 5, page 186, and to insert ("Except in certain cases in which a qualification "has been specially recognised by or under some Indian law as giving a title "to practice persons holding United Kingdom qualifications at present follow "their professions in India without restraint but have always been subject "to such restrictions as the present Indian Legislature might have imposed. "We think that the Indian Legislatures of the future should equally be free "to prescribe the conditions under which the practice of professions generally "is to be carried on")

the same is agreed to

Paragraph 339 is again read as amended

The further consideration of paragraph 339 is postponed

Paragraphs 340 to 348 are again postponed

Paragraph 349 is again read

It is moved by Sir Samuel Hoare and Mr Butler Page 191, line 45, to leave out ("assessed") and to insert ("determined, either in the first instance "or on appeal,")

The same is agreed to

Paragraph 349 is again read, as amended

The further consideration of paragraph 349 is postponed

Paragraph 350 to 370 are again postponed

It is moved by Sir Samuel Hoare and Mr Butler Page 202, line 17, after paragraph 370 (and before the appendix) to insert the following new paragraph

("370A We attach special importance to the arbitration procedure mentioned above as a means of settling disputes on administrative issues between the Railway Authority and the Administrations of railways owned and worked by an Indian State The Constitution Act should contain adequate provision to ensure reasonable facilities for the State's railway traffic and to protect its system against unfair or uneconomic competition or discrimination in the Federal Legislature We consider that States owning and working a considerable railway system should be able to look to the arbitration machinery which we recommend for adequate protection in such matters On the other hand if any State is allowed to reserve, as a condition of accession the right to construct railways in its territory notwithstanding Item (9) of the revised exclusive Federal List their right to do so should be subject to appeal by the Railway Authority to the same tribunal") Disputes between Railway Authority and Indian States Railways.

The same is agreed to

New paragraph 370A is again read

The further consideration of paragraph 370A is postponed

The Appendix (IV) is again postponed

Paragraphs 371 to 413 are again postponed

Paragraph 414 is again read

It is moved by Sir Samuel Hoare and Mr Butler Page 229, lines 7 to 9, to leave out from ("Ministers") in line 7 to ("but") in line 9 and to insert ("To avoid repeating at length what we have already said in earlier parts of "our Report, we think it desirable to make clear at this point our intention "that the modifications which we have recommended in the proposals in the "Indian White Paper should *mutatis mutandis* be applied to the corresponding "proposals in the Burma White Paper")

The same is agreed to

Paragraph 414 is again read, as amended.

The further consideration of paragraph 414 is postponed.

Paragraph 415 is again read.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 229, lines 27 to 41, to leave out from ("accepted") in line 27, to the end of the paragraph and to insert ("*Prima facie* the same considerations apply in Burma as would "apply if she were not separated from India but continued to constitute a "Province of British India. But it is necessary to take into account the "special factors which characterise conditions in Burma.")

The same is agreed to.

Paragraph 415 is again read, as amended.

The further consideration of paragraph 415 is postponed.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 229, after paragraph 415, to insert the following new paragraph :—

("415A. Terrorism of the Bengal type is we are informed, practically unknown as an indigenous movement among Burmans, though the Indian population in Rangoon, does, we believe, from time to time include emissaries of the Bengal movement and the communal question, so far as it arises from strong religious antagonisms is comparatively unimportant in Burma though even there, within the resident Indian community, Hindu-Moslem conflicts are not unknown. But the place of these menaces to ordered Government is taken by racial rivalries between Indian and Burman, Burman and Chinese, and sometimes between Karen and Burman, which upon occasions have flared up into acts of violence or persecution : not many years ago the racial rivalry between the Burmans and the Indian community developed into a serious menace to the safety of the latter in the Delta and Coastal Districts, in which richer tracts it holds an increasingly important share in commerce, trade and labour supply. Again serious crime—especially crimes of violence—appears to be more rife in Burma than in India. In proportion to population the percentage of murders, dacoities and cattle thefts exceeds (often greatly exceeds) the percentage in almost every other Province in British India. It has frequently been necessary to adopt special measures to deal with large-scale dacoities accompanied by murder, and waves of this type of crime are apt to develop into rebellions and guerilla warfare, as was shown by the recent grave rebellion and other similar revolts in the history of the country. The peace of the Province has at intervals been disturbed by conspiracies, sometimes originating across the border, led by exile pretenders claiming royal descent, or by persons supposed to be reincarnated national heroes, who play on the superstitions of the ignorant people. All these movements, if not properly handled from the outset, may throw a country side into disorder and panic, and cause loss of life and property.

Nevertheless, we are of opinion that the responsibility for Law and Order ought in future to rest on Ministers in Burma no less than in India, and for substantially the same reasons. But, at the same time, taking into consideration the special features which we have described, of the situation in Burma, we think it essential that not only should the Governor of Burma have a special responsibility for the prevention of any grave menace to the peace and tranquillity of Burma and the powers that flow from this responsibility, but also that he, no less than the Governors of Indian Provinces, should be invested with the statutory powers which we have recommended in their case to equip them against attempts to overthrow by violence the Government established by law.

Further, the conditions which we have depicted manifestly necessitate the maintenance of an efficient and highly disciplined Police Force in Burma; and we are strongly of opinion that the recommendations

which we have made in an earlier passage for the protection of the Police Force in Indian Provinces by protecting the statutes and rules which govern its internal organisation and discipline, should be adopted in Burma also.")

The amendment, by leave of the Committee, is withdrawn.

Paragraphs 416 to 425 are again postponed.

Paragraph 426 is again read.

It is moved by Sir Samuel Hoare and Mr. Butler Page 234, line 29, after ("dissolved") to insert a reference to the following footnote* —

("*The power of dissolution rests, of course, with the Governor in his discretion: see paragraph supra")

The same is agreed to

Paragraph 426 is again read, as amended.

The further consideration of paragraph 426 is postponed

Paragraphs 427 to 430 are again postponed.

Paragraph 431 is again read

It is moved by Sir Samuel Hoare and Mr Butler Page 237, lines 19 to 26, to leave out from ("State") in line 19 to ("conflicts") in line 26.
The same is agreed to

Paragraph 431 is again read, as amended.
The further consideration of paragraph 431 is postponed.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 241, after paragraph 438, to insert the following new paragraph:-

Ratios of European and Burman recruitment.

("438A. There is a matter of importance to which it will be convenient to refer at this point, namely, the principles on which recruitment to the Services which in Burma after separation will correspond to the All-India Services, should be based The Statutory Commission[1] when recording in general terms its views as to the Government of a separated Burma laid great stress on the importance of building up these Services in the tradition of the All India Services which they will replace, and said 'The pace of Burmanisation must be decided on its merits.' The ratios of European and Indian recruitment to the Indian Civil Service and Indian Police which were approved in 1924 on the recommendation of the Lee Commission were designed to produce an equality of Europeans and Indians (in which term Burmans are included for this purpose) for India, including Burma, regarded as a whole, by 1939 in the Indian Civil Service and by 1949 in the Indian Police The basis of calculation was an All India average, and it has always been recognised that whereas, by the dates mentioned, there will be more Indians than Europeans in those Services, in some Provinces, in others there will be fewer. Burma falls in the latter category From figures which have been laid before us showing the change in ratio in the Indian Civil Service in Burma during the last decade it is clear that an equality of Europeans and Burmans is unlikely to be attained by 1939, nor, we are informed, is equality likely to be attained in the Indian Police in Burma by 1949. Any attempt to expedite the attainment of such equality by sacrificing the standard required of recruits would be destructive of the principle on which the Statutory Commission laid such emphasis and might well be disastrous to Burma We are of opinion that the proportion of Europeans and Burmans in the Services which in a separated Burma will take the place of the Indian Civil Service and the Indian Police will be a relevant consideration in deciding when the projected enquiry into the question of future recruitment should take place for Burma; and we wish to endorse the opinion held by the Statutory Commission in the passage cited that, in the meantime, the important thing in Burma's interests is to preserve the standard of recruitment without too close a

[1] Report, Vol II, para 225.

consideration for the early attainment in Burma of what was no more than an average figure, calculated for the whole of India without strict regard to differing conditions in differing Provinces ")

The same is agreed to

New paragraph 438A is again read

The further consideration of paragraph 438A is postponed.

Paragraphs 439 to 442 are postponed

Paragraph 443 is again read

It is moved by Sir Samuel Hoare and Mr Butler Page 243, line 5, after (" and ") to insert (" we approve them subject to the general application " to the case of Burma, *mutatis mutandis*, of the modifications which we have " made in the corresponding proposals originally submitted to us in relation " to India In particular we recommend that there should be imposed on " the Governor of Burma an additional special responsibility corresponding " to that which[1] we have recommended should be imposed on the Governor-" General of India for the prevention of discriminatory or penal treatment " of imports from the United Kingdom ")

The same is agreed to

Paragraph 443 is again read, as amended

The further consideration of paragraph 443 is postponed

It is moved by Sir Samuel Hoare and Mr Butler Page 243, after paragraph 443, to insert the following new paragraph

Penal discrimination against imports to and from Burma and India.

(" 443A The general principle underlying the proposal submitted to us in this regard is that inasmuch as the association between India and Burma in the last 50 years has been, broadly of a similar nature to that which has been built up over a longer period between the United Kingdom and India Indians should be afforded in Burma, generally the same measure of protection in regard to their business avocations and commercial undertakings as we have recommended for United Kingdom subjects We think that this is right Pursuing this principle, we think that the additional responsibility which as we have mentioned in the preceding paragraph, should be laid upon the Governor to protect imports into Burma from the United Kingdom from penal or discriminatory treatment, should extend to the protection of imports from India into Burma And, in order that Burma should not be exposed, or feel that she is exposed by this recommendation to unequal treatment in this respect, we think that, reciprocally, the special responsibility with which the Governor General of India is to be charged under our recommendations should extend to the case of the products of Burma imported into India ")

The same is agreed to

New paragraph 443A is again read

The further consideration of paragraph 443A is postponed

Paragraph 444 is again read

It is moved by Sir Samuel Hoare and Mr Butler Page 243, line 11, after (" referred ") to insert (" deals also with a particular problem affecting the right of entry of Indian subjects into Burma It ")

The same is agreed to

Paragraph 444 is again read, as amended

The further consideration of paragraph 444 is postponed

Paragraphs 445 to 453 are again postponed

Ordered, that the Committee be adjourned till to-morrow at half-past Two o'clock.

[1] *Supra*, para 329

Die Mercurii 1° Augusti 1934

Present :

LORD ARCHBISHOP OF CANTERBURY.
MARQUESS OF SALISBURY.
MARQUESS OF ZETLAND.
MARQUESS OF READING.
EARL OF DERBY.
VISCOUNT HALIFAX.
LORD MIDDLETON.
LORD KER (M. LOTHIAN).
LORD HARDINGE OF PENSHURST.
LORD SNELL.
LORD RANKEILLOUR.
LORD HUTCHISON OF MONTROSE.
MR. ATTLEE.
MR. BUTLER.
MAJOR CADOGAN.
SIR AUSTEN CHAMBERLAIN.
MR. COCKS.
SIR REGINALD CRADDOCK.
MR. DAVIDSON.
SIR SAMUEL HOARE.
MR. MORGAN JONES.
SIR JOHN WARDLAW-MILNE.
EARL WINTERTON.

THE LORD ARCHBISHOP OF CANTERBURY in the Chair.

The Order of Adjournment is read.
The Proceedings of yesterday are read
Paragraph 1 is again postponed.
Paragraph 2 is again read.

It is moved by the Lord Archbishop of Canterbury on behalf of the Marquess of Linlithgow Page 3, line 40, after ("communities") to insert (" and to the Indian Christians now numbering some 6,000,000 ")

The same is agreed to.
Paragraph 2 is again read as amended.
The further consideration of paragraph 2 is postponed
Paragraphs 3 to 24 are again postponed.
Paragraph 25 is again read

It is moved by the Lord Archbishop of Canterbury on behalf of the Marquess of Linlithgow Page 15, line 26, to leave out (" It ") and to insert (" Under the new system of Provincial Autonomy, it will be an authority " held, as it were, in reserve; but those upon whom it is conferred must " at all times be ready to intervene, if the responsible Ministers and the " Legislatures should fail in their duty. This power of intervention ").

The same is agreed to.
Paragraph 25 is again read, as amended.
The further consideration of paragraph 25 is postponed.
Paragraph 26 is again postponed.
Paragraph 27 is again read.

It is moved by Sir Austen Chamberlain on behalf of the Lord Eustace Percy. Page 16, line 38, to leave out from (" risks ") to the end of the paragraph and to insert (" If Parliament should decide to create an All-India " Federation, the actual establishment of the new Central Legislature may " without danger be deferred for so long as may be necessary to complete " arrangements for bringing the representatives of the States into it , but its " form must be defined in the Constitution Act itself.")

The same is agreed to.
Paragraph 27 is again read as amended.
The further consideration of paragraph 27 is postponed.

All amendments are to the Draft Report (*vide supra*, paras. 1—42B, pp. 470—491; and *vide supra*, paras. 43—453, pp. 64—253) and NOT to the Report as published (Vol. I, Part I).

A Key is attached (*see* pp. 521—544), showing on which pages of the Proceedings amendments to each paragraph can be found.

Paragraph 28 is again read

It is moved by Sir Austen Chamberlain on behalf of the Lord Eustace Percy Page 16, lines 43 to 45, to leave out from the beginning of the paragraph to the end of line 45, and to insert (" This brings us to the further " proposal laid before us, that the Constitution Act should also determine the " conditions upon which an All India Federation is to be established,").

The same is agreed to.

Paragraph 28 is again read as amended

The further consideration of paragraph 28 is postponed.

Paragraphs 29 and 30 are again postponed

Paragraph 31 is again read

It is moved by Sir Samuel Hoare and Mr. Butler Page 19 line 9, to leave out (" one sixth ") and to insert (" one fourth ")

The same is agreed to

Paragraph 31 is again read, as amended

The further consideration of paragraph 31 is postponed

Paragraphs 32 to 37 are again postponed

Paragraph 38 is again read

It is moved by the Lord Archbishop of Canterbury on behalf of the Marquess of Linlithgow Page 20B, lines 38 to 40, to leave out from (" subject ") in line 38 to the end of the sentence and to insert (" to the retention by the " Governor General of the special powers and responsibilities, outside his " Reserved Departments, similar to (though not necessarily in all respects " identical with) those which we contemplate should be conferred on the " Provincial Governors The nature of the central safeguards which would " in that event be necessary, will be discussed, like the provincial safeguards, " in the body of our Report, but subject to them, the effect of drawing the " line on this point would be to make Indians responsible for policy over the " whole field of government ")

The same is agreed to.

Paragraph 38 is again read, as amended.

The further consideration of paragraph 38 is postponed.

Paragraphs 39 to 43 are again postponed.

Paragraph 44 is again read.

It is moved by the Lord Archbishop of Canterbury on behalf of the Marquess of Linlithgow Page 21, line 32 at end to insert (" We should add that we " have not thought it necessary to mention in our Report every matter of " detail with which the White Paper deals, but only those which appear to " us of sufficient general importance to warrant discussion It may be " assumed that we have no comment to offer on the proposals in the White " Paper to which we make no special reference, and we are content to leave " them to be dealt with at the discretion of His Majesty's Government in " the legislative proposals which they will lay before Parliament ")

The same is agreed to

Paragraph 44 is again read as amended.

The further consideration of paragraph 44 is postponed

Paragraphs 45 to 121 are again postponed.

Paragraph 122 is again read

It is moved by The Lord Rankeillour and the Marquess of Zetland. Page 60, line 25. At the end to insert (" We have in other respects followed the " scheme already proposed for the United Provinces in preference to that

"suggested for Bengal and Bihar. We think it inexpedient that so large a "proportion of the Second Chamber should be chosen by the First and "thereby presumably reflect their views.")

The amendment, by leave of the Committee, is withdrawn.

It is moved by the Lord Rankeillour and the Marquess of Zetland. Page 60, line 25. At the end to insert ("We think that the Legislative Council "should not be dissoluble, but that one-third of its members should retire at fixed intervals.")

The same is agreed to.

Paragraph 122 is again read as amended.

The further consideration of paragraph 122 is postponed

Paragraphs 123 to 141 are again postponed.

Paragraph 142 is again read.

It is moved by the Lord Archbishop of Canterbury on behalf of the Marquess of Linlithgow. Page 69, lines 16 and 17, to leave out from the beginning of the paragraph to ("ample") in line 17, and to insert ("We approve the 'proposals in the White Paper that the power to summon and appoint 'places for the meeting of the Provincial Legislature, and the power of 'prorogation and dissolution shall be vested in the Governor at his dis-'cretion. It is rightly proposed that the Provincial Legislature itself shall 'have").

The same is agreed to.

Paragraph 142 is again read, as amended.
The further consideration of paragraph 142 is postponed.

Paragraphs 143 to 147 are again postponed.

The Appendix (I) is again read
It is moved by Mr Butler and Sir Samuel Hoare Page 73 To omit the column of figures under the heading Madras in order to insert

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The same is agreed to.

The Appendix (I) is again read, as amended.
The further consideration of the Appendix (I) is postponed.

Paragraphs 148 to 306 are again postponed.

Paragraph 307 is again read, as amended.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 170, to leave ou paragraph 307 as amended and to insert the following new paragraph .—

Family pension funds.

(" 307. There is, however, one category of pension payments whic stands apart from the rest, namely, the pensions payable to families c officers, civil and military, the cost of which is met not from the revenue of India but from funds accumulated by means of subscriptions paid b the officers themselves. These accumulated funds are in equity th property of the subscribers, and we think it right that the fullest possibl consideration shou'd be given to their views as to the disp sal of th money. A full account of the nature of the Funds and of the ste already taken to ascerta n the views of subscribers is given in a Not by the Secretary of State for India which is printed in the Committee' Records.[1] The Note also contains in some detail proposals for meetin the subscribers' wishes We recommend that His Majesty's Governmen should take action on the lines indicated in this Note.")

The same is agreed to.

New Paragraph 307 is again read.

The further consideration of paragraph 307 is postponed.

Paragraphs 308 to 414 are again postponed.

Paragraph 415 is again read.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 229, lines 27 to 41 to leave out from (" accepted ") in line 27 to the end of the paragraph anc to insert : (" In general, the same considerations apply in Burma, if separated, " as apply in the other Provinces of British India. But there are certair " special circumstances which we think it right to mention. On the one hanc " Terrorism of the Bengal type is practically unknown among the Burmar " people, and communal strife arising from strong religious antagonism " is rare and unimportant To this extent the problem is less difficult thar " in other Provinces On the other hand Burma exhibits racial rivalries " which on occasion have developed into violent riots between one com- " munity and another, and serious crime especially crimes of violence— " appears to be more rife in Burma than in India , in proportion to popu- " lation the annual record of dacoities, murders and cattle thefts is very high. " This, no doubt, is due, in part, to the fact that barely 50 years have elapsec " since, with the conquest of Upper Burma, British authority was establishec " throughout the Province, and British ideas of Law and Order began to be " instilled into the whole countryside. To this fact and perhaps also in some " degree to the Burman temperament may, we think, be attributed the " organised resistance to authority, amounting to armed rebellion and " guerilla warfare, which has at times, even within the past few years, affected " a large number of distri ts and which, owing to the difficult nature of the " country and the lack of good communications, has proved very trouble- " some to put down Nevertheless we are of opinion that the responsibility "for Law and Order ought in future to rest on Ministers in Burma no less " than in India and for substantially the same reasons. At the same time, " bearing in mind the special features of the problem that we have described, " we think it essential that the Governor of Burma should have powers " additional to the powers flowing from his special responsibility for the " prevention of any grave menace to the peace and tranquillity of Burma " as proposed in the Burma White Paper. He, like the Governors of Indian " Provinces, should be vested with the statutory powers which we have

[1] Records [1932-33], pp. 139-142.

"recommended in their case to equip them against attempts to overthrow "by violence the Government established by law. Further, conditions in "Burma manifestly necessitate the maintenance of an efficient and highly "disciplined police force; and we are of opinion that the recommendations "which we made in an earlier passage for the protection of the police forces "in Indian Provinces by protecting the statutes and rules which govern its "internal organisation and discipline should be adopted in Burma also")

The same is agreed to.

Paragraph 415 is again read, as amended.

The further consideration of paragraph 415 is postponed.

Paragraphs 416 to 453 are again postponed.

Paragraphs 1 to 138 are again postponed.

Paragraph 139 is again read, as amended, and is as follows:—

"139. We do not think that the consent of the Governor should any longer be required to the introduction of legislation which affects religion or religious rites and usages. We take this view, not because we think that the necessity for such consent might prejudice attempts to promote valuable social reforms, which has been suggested as a reason for dispensing with it, but because in our judgment legislation of this kind is above all other such as ought to be introduced on the responsibility of Indian Ministers. We have given our reasons elsewhere for holding that matters of social reform which may touch, directly or indirectly, Indian religious beliefs can only be undertaken with any prospect of success by Indian Ministers themselves, and, that being so, we think it undesirable that their responsibility in this most important field should be shared with a Governor. It has been objected that the mere introduction of legislation affecting religion or religious rites and usages might be dangerous at times of religious or communal disturbance, and might indeed itself produce such disturbance. We observe, however, a Proposal in the White Paper[1] whereby the Governor would be empowered, in any case in which he considers that a Bill introduced or proposed for introduction, or any clause thereof, or any amendment to a Bill moved or proposed, would affect the discharge of his special responsibility for the prevention of any grave menace to the peace or tranquillity of the Province, to direct that the Bill, clause or amendment
23 shall not be further proceeded with. This appears to us an ample safe-
24 guard against the danger to which we have referred, and in addition it would of course always be open to the Governor, in his discretion, to refuse his assent to any Bill which has been passed by the Legislature, if in his opinion it is undesirable on any ground that it should become law. We had also thought at first that a Provincial Legislature ought not to be empowered (as they are not empowered at present) to pass a law which repeals or is repugnant to an Act of Parliament extending to British India, even though the prior consent of the Governor to its introduction in the Legislature might be required. We understand, however, that the great bulk of the existing law in India is the work of Indian legislative bodies and that there are in fact very few Acts of Parliament (apart from those relating to subjects on which it is proposed that the Legislatures shall have not power to legislate at all) which form part of the Indian statute book, and fewer still dealing with matters which will fall within the provincial sphere. In these circumstances we

The White Paper proposals improved.

think that the proposal should stand; but the Governor's Instrument of Instructions might perhaps direct him to reserve bills which appear to him to fall within this category."

It is moved by the Lord Rankeillour. Lines 23 and 24, to leave out from (" with.") in line 23 to (" and ") in line 24 and to insert (" If this " provision were extended to cover the case of the Governor's other " special responsibility for the protection of the legitimate interests of " minorities there would, in our opinion, be ample safeguards against " the dangers both of public disturbance and of possible oppression of " small communities unable or unwilling to give serious trouble.")

The amendment, by leave of the Committee, is withdrawn.

Paragraph 139 is again read, as amended.

The further consideration of paragraph 139 is postponed.

Paragraphs 140 to 153 are again postponed.

Ordered, that the Committee be adjourned to Monday the 8th of October next at Three o'clock

Die Lunae 8° Octobris 1934.

Present:

LORD ARCHBISHOP OF CANTERBURY.
MARQUESS OF SALISBURY.
MARQUESS OF ZETLAND.
MARQUESS OF LINLITHGOW.
EARL OF DERBY.
EARL OF LYTTON.
EARL PEEL.
LORD MIDDLETON.
LORD HARDINGE OF PENSHURST.
LORD SNELL.
LORD RANKEILLOUR.
LORD HUTCHISON OF MONTROSE.

MR. ATTLEE.
MR. BUTLER.
MAJOR CADOGAN.
SIR AUSTEN CHAMBERLAIN.
MR. COCKS.
SIR REGINALD CRADDOCK.
MR. DAVIDSON.
MR. FOOT.
SIR SAMUEL HOARE.
MR. MORGAN JONES.
SIR JOSEPH NALL.
LORD EUSTACE PERCY.
SIR JOHN WARDLAW-MILNE.
EARL WINTERTON.

THE MARQUESS OF LINLITHGOW in the Chair.

The Order of Adjournment is read.

The Proceedings of Wednesday the 1st of August last are read.

Paragraph 1 is again read.

It is moved by Sir Austen Chamberlain on behalf of the Marquess of Zetland. Page 3, line 14, to leave out ("been able to enter upon, much less"), and to insert ("found it possible").

The same is agreed to.

Paragraph 1 is again read, as amended.

The further consideration of paragraph 1 is postponed.

Paragraph 2 is again read.

It is moved by Mr. Cocks. Page 3, line 37, to leave out ("which").

The same is agreed to.

It is moved by the Earl Peel. Page 3, lines 37 and 38 to leave out ("impervious to the more liberal") and to insert ("unaffected by contact "with the").

The same is agreed to.

It is moved by Mr. Cocks, Mr. Attlee, Mr. Morgan Jones, and the Lord Snell. Page 4, line 5, after ("owing") to insert ("in large part").
The same is agreed to.

Paragraph 2 is again read, as amended.
The further consideration of paragraph 2 is postponed.

All amendments are to the Draft Report (*vide supra*, paras. 1—42B, pp. 470—491; and paras. 42—453, pp. 64—258) and NOT to the Report as published (Vol. I, Part 1).
A Key is attached (see p. 627, *et seq.*), showing on which pages of the Proceedings amendments to each paragraph can be found.

Paragraph 3 is again read.

It is moved by the Marquess of Salisbury. Page 4, line 14 after ("Princes") to insert (" (though in point of fact not all of these six have "been continuously and some have never been represented, and none of them "has taken an active part in the work of the Chamber since 1933) ").

The same is agreed to.

It is moved by the Marquess of Linlithgow. Page 4, line 16, to leave out ("327") and to insert ("some 300").

The same is agreed to.

Paragraph 3 is again read as amended.

The further consideration of paragraph 3 is postponed.

Paragraph 4 is again read.

It is moved by the Marquess of Linlithgow. Page 4, line 34 after ("Parliament") to insert (", and the [illegible] of the Governors in Council in "relation to the reserved subjects in the Provinces").

The same is agreed to.

It was moved by the Earl Peel. Page 4, lines 38 to 40, to leave out from ("provincial") to the end of the paragraph.

The same is agreed to.

Paragraph 4 is again read as amended.

The further consideration of paragraph 4 is postponed.

Paragraph 5 is again postponed.

Paragraph 6 is read as amended and is as follows:—

The British Achievement.

"6. The record of British rule in India is well known. Though we claim for it neither infallibility not perfection since like all systems of Government it has at times fallen into error, it is well to remember the greatness of its achievement. It has given to India that which throughout the centuries she has never possessed, a Government whose authority is unquestioned in any part of the sub-Continent; it has barred the way against the foreign invader and has maintained tranquillity at home; it has established the rule of law, and by the creation of a just administration and an upright judiciary it has secured to every subject of His Majesty in British India the right to go in peace about his daily work and to retain for his own use the fruit of his labours. The ultimate agency in achieving these results has been the power wielded by Parliament. The British element in the administrative and judicial services has always been numerically small. The total European population of British India to-day, including some 60,000 British troops, is only 135,000. The total British element in the Superior Services is about 3,150, and of these there are approximately 800 in the Indian Civil Service and 500 in the Indian Police."

It is moved by the Lord Middleton. Line 2, to leave out ("not") and to insert ("nor").

The same is agreed to.

It is moved by Mr. Cocks. Line 5, to leave out ("the") and to insert ("many").

The amendment, by leave of the Committee, is withdrawn.

It is moved by Mr. Attlee, Mr. Cocks, Mr. Morgan Jones, and the Lord Snell. Line 10 after ("right") to insert ("if not the power").

The same is disagreed to.

Paragraph 6 is again read, as amended.

The further consideration of paragraph 6 is postponed.

Paragraph 7 is read, as amended, and is as follows:—

"7. The success of British rule cannot be justly estimated without reference to the condition of things which preceded it. The arts of The Mogul Empire.
3 government and administration were not indeed unknown to the earlier
4 Hindu kings like Asoka, and the strong hand of the Mogul Emperors who reigned between 1525 and 1707 maintained a State which ultimately embraced the larger part of India and did not suffer by comparison with, if it did not even surpass in splendour, the contemporary monarchies of Europe. But the strength of the Mogul Empire depended essentially upon the personal qualities of its ruling House, and when the succession of great Emperors failed its collapse inevitably followed; nor during its most magnificent period was its authority unchallenged either within or without its borders. Its system of government resembled that of other Asiatic despotisms. The interests of the subject races were made subservient to the ambitions, and often to the caprices, of the monarch; for the politic toleration of Akbar and his immediate successors disappeared with Aurungzeb. The imperial splendour became the measure of the people's poverty, and their sufferings are said by a French observer, long resident at the Court of Aurungzeb, to have been beyond the power of words to describe."

It is moved by Mr. Cocks: Lines 3 and 4, to leave out ("the earlier Hindu kings like Asoka,") and to insert ("the Buddhist Emperor Asoka (264–227 B.C.), one of the greatest and most peace-loving rulers the world has ever seen,").

The amendment, by leave of the Committee, is withdrawn.

It is moved by The Lord Hardinge of Penshurst: Line 4, to leave out ("like Asoka,").

The same is agreed to.

Paragraph 7 is again read, as amended.

The further consideration of paragraph 7 is postponed.

Paragraph 8 is again postponed.

Paragraph 9 is again read.

It is moved by Mr. Cocks: Page 6, lines 25 and 26, to leave out from ("than") in line 25 to the end of the paragraph and to insert ("anything she has ever been able to achieve in modern as contrasted with traditional times.").

The same is disagreed to.

It is moved by Sir Reginald Craddock: Page 6, line 26, after ("history,") to insert ("At the same time the surveys and settlement of the land including the recognition and determination by law of land tenures, and the just assessment of the land revenue, together with the preparation and revision from time to time of the record of rights and customs, have afforded guarantees of security to the vast agricultural population upon which has depended the welfare of the whole sub-continent.").

The same is agreed to.

It is moved by Mr. Morgan Jones, Mr. Attlee, Mr. Cocks, and the Lord Snell: Page 6, line 26, at the end to insert ("It would be to leave one side of the picture unpainted, however, if we failed to point out that in spite

"of this educational and material progress, which we do not seek to under-"estimate—and in this connection it must be mentioned that at no period "of its history has India, which possesses an ancient and unique literature "of its own, been an altogether unenlightened country—the great mass of "the population still remains in a state of extreme poverty, that perhaps in "no other part of the world is to be seen so sharp a contrast between the great "wealth of the comparatively few and the grinding indigence of the many, "that the toiling peasant is still burdened by the exactions of the money-"lender and the often absentee landlord and that, according to the Census "of 1921, only 19,800,000 men and 2,800,000 women, or 122 in every 1,000 "men and 18 in every 1,000 women, roughly 7 per cent. of the population, "are able to read and write.")

Objected to.

On Question: —

Contents (4).	Not Contents (20).
Lord Snell.	Lord Archbishop of Canterbury.
Mr. Attlee.	Marquess of Salisbury.
Mr. Cocks.	Marquess of Linlithgow.
Mr. Morgan Jones.	Earl of Derby.
	Earl Peel.
	Lord Middleton.
	Lord Hardinge of Penshurst.
	Lord Rankeillour.
	Lord Hutchison of Montrose.
	Mr. Butler.
	Major Cadogan.
	Sir Austen Chamberlain.
	Sir Reginald Craddock.
	Mr. Davidson.
	Mr. Foot.
	Sir Samuel Hoare.
	Sir Joseph Nall.
	Lord Eustace Percy.
	Sir John Wardlaw-Milne.
	Earl Winterton.

The said amendment is disagreed to.

Paragraph 9 is again read, as amended.

The further consideration of paragraph 9 is postponed.

Paragraph 10 is again read.

It is moved by Sir Austen Chamberlain on behalf of the Marquess of Zetland. Page 6, line 47, to leave out ("enough without") and to insert ("an acceptable substitute for").

The same is agreed to.

It is moved by the Earl Peel. Page 7, lines 2 to 8, to leave out from the beginning of line 2 to the end of the paragraph.

The same is agreed to.

Paragraph 10 is again read, as amended.
The further consideration of paragraph 10 is postponed.

Paragraph 11 is again read.
It is moved by the Lord Eustace Percy: Page 7, line 23, after ("been") to insert ("for generations").
The same is agreed to.

It is moved by the Lord Eustace Percy. Page 7, line 24, to leave out ("for many generations").

The same is agreed to.

Paragraph 11 is again read, as amended.

The further consideration of paragraph 11 is postponed.

Paragraph 12 is again read.

It is moved by the Marquess of Linlithgow on behalf of Viscount Halifax. Page 7, line 40, after ("India") to insert (", and notably").

The same is agreed to.

It is moved by Mr. Cocks, Mr. Attlee, Mr. Morgan Jones, and the Lord Snell. Page 8, lines 7 to 10, to leave out from the beginning of line 7 to ("we") in line 10.

Objected to.

On Question :—

Contents (4)	Not Contents (20)
Lord Snell.	Lord Archbishop of Canterbury.
Mr. Attlee.	Marquess of Salisbury.
Mr. Cocks.	Marquess of Linlithgow.
Mr. Morgan Jones.	Earl of Derby.
	Earl Peel.
	Lord Middleton.
	Lord Hardinge of Penshurst.
	Lord Rankeillour.
	Lord Hutchison of Montrose.
	Mr. Butler.
	Major Cadogan.
	Sir Austen Chamberlain.
	Sir Reginald Craddock.
	Mr. Davidson.
	Mr. Foot.
	Sir Samuel Hoare.
	Sir Joseph Nall.
	Lord Eustace Percy.
	Sir John Wardlaw Milne.
	Earl Winterton.

The said amendment is disagreed to.

It is moved by Mr. Cocks, Mr. Attlee, Mr. Morgan Jones, and the Lord Snell. Page 8, after line 35, to insert ("To this we would add the statement "made in the revised Instrument of Instructions from His Majesty the "King Emperor to the Governor General of India, dated the 15th March "1921, which reads :—'For above all things it is our will and pleasure that "the plans laid by our Parliament... may come to fruition to the end that "British India may attain its true place among our Dominions.'")

The amendment, by leave of the Committee, is withdrawn.

It is moved by Mr. Cocks, Mr. Attlee, Mr. Morgan Jones and the Lord Snell. Page 8, after line 35, to insert ("To this we would add the concluding "words of the Prime Minister at the Final Session of the first Round Table "Conference in January, 1931 —'Finally, I hope, and I trust, and I pray "that by our labours together India will come to possess the only thing she "now lacks to give her the status of a Dominion amongst the British Common-"wealth of nations—what she now lacks for that—the responsibilities and "the cares, the burdens and the difficulties, but the pride and the honour of "responsible self-Government.'")

The amendment, by leave of the Committee, is withdrawn.

Paragraph 12 is again read

The further consideration of paragraph 12 is postponed

Paragraph 13 is again read

It is moved by the Lord Eustace Percy Page 9 lines 17 and 18 to leave out from ("are") in line 17 to the end of line 18 and to insert ("bound up "with")

The same is agreed to

It is moved by the Lord Eustace Percy Page 9, line 20, to leave out from ("State") to (transcending)

The same is agreed to

It is moved by the Lord Eustace Percy Page 9 lines 21 and 22, to leave out from (hour') in line 21 to the end of the sentence

The same is agreed to

Paragraph 13 is again read as amended

The further consideration of paragraph 13 is postponed

Paragraph 14 is again postponed

Paragraph 15 is again read

It is moved by Mr Cocks Page 10, line 7, to leave out (which')

The same is agreed to

Paragraph 15 is again read as amended

The further consideration of paragraph 15 is postponed

Paragraph 16 is again postponed

Paragraph 17 is again read

It is moved by the Marquess of Linlithgow Page 11, lines 30 and 31, to leave out ('action of government is split up into') and to insert ("govern-'ment functions in')

The same is agreed to

Paragraph 17 is again read as amended

The further consideration of paragraph 17 is postponed.

Paragraph 18 is again postponed

Paragraph 19 is again read

It is moved by the Marquess of Salisbury. Page 12, lines 10 to 12, to leave out from the second ('the') in line 10 to ("enforcement") in line 12.

The same is disagreed to

It is moved by the Marquess of Salisbury Page 12, lines 13 to 25, to leave out from ("administration") in line 13 to ("In") in line 25.

The same is disagreed to.

Paragraph 19 is read

The further consideration of paragraph 19 is postponed.

Paragraph 20 is read, as amended, and is as follows

"20 In establishing, or extending parliamentary government in the Provinces, Parliament must take into account the facts of Indian life It must give full weight, indeed, to the testimony of the Statutory Commission that, in spite of the disadvantages of dyarchy on which the Commission laid such stress, Indians have shown, since 1921, a marked capacity for the orderly conduct of Parliamentary business, a capacity which has grown steadily with the growth of their experience We cannot doubt that this apprenticeship in Parliamentary methods has profoundly affected the whole character of Indian public life, both by widening the circle of those who have had practical contact with the affairs of government and by stimulating the growth of a public conscience amongst the educated classes as a whole But other facts must also be frankly recognized Parliamentary government, as it is understood in the United Kingdom, works by the interaction of four essential factors the principle of majority rule, the willingness of the minority for the time being to accept the decisions of the majority, the existence of

17 great political parties differing on questions of policy, but each desiring
18 to act with public spirit and in good faith, and finally the existence
a mobile body of political opinion, owing no permanent allegiance to
20 either Party and therefore able, by its instinctive reaction against
extravagant movements on one side or the other, to keep the vessel
on an even keel In India none of these factors can be said to exist
23 today There are no parties, as we understand them, and no mobile
24 body of political opinion In their place we are confronted with the
age-old antagonism of Hindu and Muhammedan representatives not only of two religions but of two civilisations, with numerous self contained and exclusive minorities all a prey to anxiety for their future and profoundly suspicious of the majority and of one another, and with the rigid divisions of caste, itself inconsistent with democratic principle In these circumstances, communal representation must be accepted as inevitable at the present time, but it is a strange commentary on some of the democratic professions to which we have listened We lay stress on these facts because in truth they are of the essence of the problem and we should be doing no good service to India by glozing them over These difficulties must be faced, not only by Parliament, but by Indians themselves It is impossible to predict whether, or how soon, a new sense of provincial citizenship, combined with the growth of parties representing
38 divergent economic and social interests, may prove strong enough to
absorb and obliterate the religious and racial cleavages which thus dominate Indian political life Meanwhile it must be recognised that, if free play were given to the powerful forces which would be set in motion by an unqualified system of parliamentary government, the consequences would be disastrous to India, and perhaps irreparable. In these circumstances, the successful working of parliamentary government in the Provinces must depend, in a special degree, on the extent to which Parliament can translate the customs of the British constitution into statutory "safeguards" "

British conception of Parliamentary Government

It is moved by the Lord Eustace Percy Lines 17 and 18 to leave out from (" parties ") in line 17 to the second (" and ") in line 18 and to insert (" divided by broad issues of policy, rather than by sectional " interests, ").

The same is agreed to

It is moved by the Marquess of Linlithgow Page 12, line 20 to leave out (" either ") and to insert (" any ").

The same is agreed to.

It is moved by Mr. Cocks. Line 23, after ("and") to insert ("there is").

The same is agreed to.

It is moved by the Lord Archbishop of Canterbury. Lines 23 and 24, to leave out ("no mobile body of political opinion") and to insert ("no considerable body of political opinion which can be described as "mobile").

The same is agreed to.

It is moved by the Lord Eustace Percy. Line 38, to leave out ("interests") and to insert ("policies").

The same is agreed to

Paragraph 20 is again read as amended.

The further consideration of paragraph 20 is postponed.

Paragraph 21 is again read.

It is moved by Mr. Cocks. Page 13, line 32, to leave out ("which").

The same is agreed to.

It is moved by the Earl Peel. Page 13, line 33, to leave out from ("of") to the end of the line and to insert ("those").

The same is agreed to.

Paragraph 21 is again read as amended.

The further consideration of paragraph 21 is postponed.

Paragraph 22 is again read

It is moved by Mr. Cocks, Mr. Attlee, Mr. Morgan Jones, and the Lord Snell. Page 14, line 14, to leave out ("indeed") and to insert ("very often").

The same is disagreed to.

Paragraph 22 is again read, as amended.

The further consideration of paragraph 22 is postponed.

Paragraph 23 is again postponed

Paragraph 24 is again read.

It is moved by the Lord Middleton. Page 15, line 20, to leave out ("quiet") and to insert ("remove").

The same is agreed to.

Paragraph 24 is again read, as amended.

The further consideration of paragraph 24 is postponed.

Paragraph 25 is read, as amended, and is as follows:—

and for an impartial authority to hold scales evenly between conflicting interests.

"25. Lastly, there must be an authority in India, armed with "adequate powers, able to hold the scales evenly between conflicting "interests and to protect those who have neither the influence nor "the ability to protect themselves. Such an authority will be as "necessary in the future as experience has proved it to be in the past. "Under the new system of Provincial Autonomy, it will be an authority held, as it were, in reserve; but those upon whom it is conferred "must at all times be ready to intervene, if the responsible Ministers 8
"and the Legislatures should fail in their duty. This power of "intervention must, generally speaking, be vested primarily in the "Provincial Governors, but their authority must be closely linked "with, and must be focussed in, a similar authority vested in the

"Governor-General, as responsible to the Crown and Parliament for "the peace and tranquillity of India as a whole, and for the protection "of all the weak and helpless among her people This leads us "naturally to a consideration of the next point in the Indian "constitutional problem - the form and character of the Central "Government."

It is moved by the Lord Archbishop of Canterbury Line 8, to leave out (" ready to intervene ") and to insert (" able to intervene promptly "and effectively ")

The same is agreed to

Paragraph 25 is again read, as amended.

The further consideration of paragraph 25 is postponed.

Paragraph 26 is again postponed.

Paragraph 27 is again read

It is moved by the Marquess of Linlithgow. Page 16, line 20, to leave out (" are ") and to insert (" should be ").

The same is agreed to.

It is moved by the Earl Peel. Page 16, line 42, to leave out (" its form ") and to insert (" the form of that legislature ").

The same is agreed to.

Paragraph 27 is again read, as amended.

The further consideration of paragraph 27 is postponed.

Paragraph 28 is read as amended, and is as follows:

"28 This brings us to the further proposal laid before us, that the "Constitution Act should also determine the conditions upon which "an All India Federation is to be established, including the Indian "States This is a separate operation, which may proceed simulta-"neously with the introduction of Provincial Autonomy and the "reconstitution of the Central Legislature, but which must be carried "out by different methods and raises quite distinct issues of policy. "We will leave questions of method to be considered in the body of "our Report, but the issues of policy must be briefly discussed here." The Indian States and an All-India Federation.

It is moved by the Earl Peel To leave out paragraph 28

The amendment, by leave of the Committee, is withdrawn.

Paragraph 28 is again read

The further consideration of paragraph 28 is postponed.

Paragraph 29 is again read.

It is moved by the Lord Eustace Percy. Page 17, line 15, to leave out (" the ").

The same is agreed to.

It is moved by the Lord Eustace Percy. Page 17, lines 15 and 16, to leave out (" which they had suggested ").

The same is agreed to.

Paragraph 29 is again read, as amended.

The further consideration of paragraph 29 is postponed.

Paragraph 30 is again read.

It is moved by the Marquess of Salisbury. Page 17, line 44, to leave out (" any formal ") and to insert (" these ")

The same is agreed to

It is moved by the Lord Archbishop of Canterbury. Page 18, line 23, to leave out (" Englishmen ") and to insert (" the people of this country ").

The same is agreed to

It is moved by the Lord Middleton Page 18, lines 23 to 32, to leave out from (" Englishmen ") in line 23 to (" But ") in line 32 and to insert (" From their point of view it is evident enough that Ruling Princes who " in the past have been the firm friends of British rule have sometimes " felt their friendship tried by decisions of the Government of India " running counter to what they believed to be the interests of their States " and Peoples Ruling Princes however as members of a Federation may " be expected to give steadfast support to a strong and stable Central Gov- " ernment, and to become helpful collaborators in policies which they have " sometimes in the past been inclined to criticise or even obstruct ")

The same is agreed to

Paragraph 30 is again read as amended

The further consideration of paragraph 30 is postponed

Paragraph 31 is again read

It is moved by The Lord Eustace Percy Page 19, line 8, to leave out (" somewhat ") and to insert (" only slightly ")

The same is agreed to

Paragraph 31 is again read, as amended

The further consideration of paragraph 31 is postponed

Paragraphs 32 to 36 are again postponed

Paragraph 37 is again read

It is moved by the Lord Archbishop of Canterbury Page 20a lines 44 to 46, to leave out from (" Commission ") in line 44 to the end of the sentence.

The same is agreed to

It is moved by the Lord Eustace Percy Page 20b line 1, after (" Governor-General ") to insert (" much of ")

The same is agreed to

Paragraph 37 is read as amended

The further consideration of paragraph 37 is postponed

Paragraph 38 is read, as amended, and is as follows. —

(3) In the Central Government itself.

" 38. Lastly, the line can be drawn within the Central Government itself, in such a way as to reserve the Departments of Defence and Foreign Affairs to the Governor-General, while committing all other central subjects to the care of responsible Ministers, subject to the

retention by the Governor-General of the special powers and responsibilities, outside his Reserved Departments, similar to (though not necessarily in all respects identical with) those which we contemplate should be conferred on the Provincial Governors The nature of the central safeguards which would in that event be necessary will be discussed, like the provincial safeguards, in the body of our Report, but, subject to them the effect of drawing the line on this point would be to make Indians responsible for policy over the whole field of government. It is, we think, a fair conclusion from the Report of the Statutory Commission that this was the line at which they contemplated that the division of responsibility would ultimately be made They contemplated an eventual All India Federation They believed that the constitution which they recommended for the Central Government would contain in itself the seeds of growth and development It was no doubt, for that reason and foreseeing the course of that development that they suggested that the protection of India's frontiers should not at any rate for a long time to come be regarded as a function of an Indian Government in relation with an Indian Legislature at all but as a responsibility to be assumed by the Imperial Government Apart from the difficulties of this suggestion to which we shall have to return in the body of our Report it obviously involves a dyarchy of much the same kind as would result from a frank reservation to the Governor-General of the Department of Defence In fact, the reservation of Defence with the reservation of Foreign Affairs as intimately connected with Defence is the line of division which corresponds most nearly with the realities of the situation It is also the line of division which, on the whole, creates the least danger of friction As the Statutory Commission pointed out in the passage we have already quoted, dyarchy has not, even in the Provinces, raised any insuperable difficulties "in the inner counsels of the government", and the danger of friction in the inner counsels of the Central Government will be even smaller, for the administration of Defence and Foreign Affairs will normally at any rate have few contacts with other fields of Central administration under the new constitution The one real danger of friction and that a serious one lies in the very large proportion of Central revenues which is and must continue to be absorbed by the Army Budget That Budget will be removed from the control of the Central Legislature which will be able to discuss but not to modify or reject it, and it may be argued with much force that the existence of a standing charge of this magnitude will deprive Ministers chosen from the Legislature of any real responsibility for the financial policy of the Federation

It is moved by the Lord Eustace Percy Line 5, to leave out the second ("the")

The same is agreed to

It is moved by the Lord Eustace Percy Line 11 to leave out ("on") and to insert ("at").

The same is agreed to

It is moved by the Lord Eustace Percy Line 12, to leave out ("policy") and to insert ("legislation and administration")

The same is agreed to

It is moved by the Lord Eustace Percy Line 12, to leave out ("government") and to insert ("social and economic policy")

The same is agreed to

It is moved by the Earl Peel and Major Cadogan Lines 40 to 45, to leave out from the first ("Budget.") in line 40 to the end of the paragraph.

Objected to.

On Question :—

Contents (20)	Not Contents (4)
Lord Archbishop of Canterbury	Lord Snell.
Marquess of Salisbury.	Mr Attlee
Marquess of Linlithgow	Mr Cocks
Earl of Derby	Mr Morgan Jones
Earl of Lytton	
Earl Peel	
Lord Middleton	
Lord Hardinge of Penshurst	
Lord Rankeillour	
Lord Hutchison of Montrose	
Mr Butler	
Major Cadogan	
Sir Austen Chamberlain	
Sir Reginald Craddock	
Mr Davidson	
Sir Samuel Hoare	
Sir Joseph Nall	
Lord Eustace Percy	
Sir John Wardlaw-Milne	
Earl Winterton.	

The said amendment is agreed to.

Paragraph 38 is read, as amended.

The further consideration of paragraph 38 is postponed.

Paragraph 39 is read, as amended, and is as follows —

The Central Legislature and the Army Budget.

"39 It is true that this difficulty is inherent in the facts of the situation It exists at the present day Ever since the Act of 1919, the Central Legislature has constantly sought to 'magnify its functions in the reserved field' of the Army Budget The serious friction thus caused would be likely to manifest itself in an even stronger form in the future in a Central Legislature such as was proposed by the Statutory Commission a Legislature largely representative of Provincial Legislatures, yet denied all effective control over any branch of Central finance It is also true that the Statutory Commission's own scheme for a reservation of Defence to the Imperial Parliament would raise the same difficulty in an even more acute form It is even true that the friction which now exists over Army expenditure could hardly be intensified and might be substantially mitigated by the existence of a Ministry generally responsible to the Legislature for finance The existence of a large standing charge for Defence does not lessen the financial responsibility of Ministers Far the greater part of most national budgets are, in effect unalterable because they are the results of commitments arising out of the past in the field of foreign relations or of social reform The margin of discretion which is available to Ministers anywhere in increasing or reducing taxation or altering expenditure is usually small and this margin, in India, will be within the control of Ministers, subject to the Governor-General's special responsibility in the financial sphere Ministers will naturally wish to save money on defence in order that they may spend it on 'nation building' departments under their own charge But in point of fact the cost of Indian defence, though a large proportion of the Central budget, is, compared with the whole of the resources of India, central and

28 provincial, considerably less than the cost of defence in some other
29 countries containing a smaller population than that of India We
believe that responsible Indian Ministers will be not less anxious for adequate defence than the Governor-General and will usually, after discussion with him, support his view of what is necessary and will be able to convince their following in the legislature that it is sound Yet in spite of these weighty considerations, the danger of friction between the Governor General and the Legislature over the Army Budget undoubtedly furnishes an additional argument against responsibility at the Centre in a purely British India Federation But that is not the proposition we are now discussing We have already made it clear that, in such a Federation, we should have felt constrained to draw our line of division at another point, notwithstanding the disadvantages of the alternatives to which we have drawn attention above What we are now discussing is an All-India Federation, and in regard to the Army Budget, as in regard to the broader issues of the relations between British India and the States, the declaration of the Princes, indicating their willingness to enter an All India Federation, has introduced a new and, in our judgment, a determining factor It is reasonable to expect that the presence in the Central Executive and Legislature of
48 representatives of the State Rulers who have always taken so keen an interest in all matters relating to Defence will afford a guarantee that these grave matters will be weighed and considered with a full appreciation of the issues at stake It is, indeed one of the main advantages of an All India Federation that it will enable Parliament to draw the line of division between responsibility and reservation at the point which, on other grounds, is most likely to provide a workable solution "

It is moved by the Marquess of Salisbury Lines 14 to 23, to leave out from (" finance ") in line 14 to (' Ministers ") in line 23

Objected to

On Question —

Contents (7).	Not Contents (18).
Marquess of Salisbury.	Lord Archbishop of Canterbury.
Lord Middleton	Marquess of Linlithgow
Lord Rankeillour.	Earl of Derby
Major Cadogan	Earl of Lytton.
Sir Reginald Craddock	Earl Peel
Sir Joseph Nall	Lord Hardinge of Penshurst.
Lord Eustace Percy.	Lord Snell
	Lord Hutchison of Montrose
	Mr Attlee
	Mr Butler
	Sir Austen Chamberlain
	Mr Cocks
	Mr Davidson
	Mr, Foot
	Sir Samuel Hoare.
	Mr Morgan Jones
	Sir John Wardlaw-Milne.
	Earl Winterton.

The said amendment is disagreed to.

It is moved by the Lord Rankeillour. Line 15 to leave out ("standing").

Objected to.

On Question :—

Contents (11).	Not Contents (13).
Marquess of Salisbury.	Lord Archbishop of Canterbury.
Earl of Derby.	Marquess of Linlithgow.
Earl of Lytton.	Earl Peel.
Lord Middleton.	Mr. Attlee.
Lord Hardinge of Penshurst.	Mr Butler.
Lord Rankeillour.	Mr. Cocks.
Lord Hutchison of Montrose.	Mr. Davidson.
Major Cadogan.	Mr Foot.
Sir Austen Chamberlain.	Sir Samuel Hoare.
Sir Reginald Craddock.	Mr. Morgan Jones.
Sir John Wardlaw-Milne.	Sir Joseph Nall.
	Lord Eustace Percy.
	Earl Winterton.

The said amendment is disagreed to.

It is moved by Sir Samuel Hoare and Mr. Butler. Line 15 to leave out (" does not lessen ") and to insert (" circumscribes but by no means destroys ").

The same is agreed to.

It is moved by the Lord Eustace Percy. Lines 25 to 29, to leave out from (" charge.") in line 25 to the end of line 29 and to insert (" but we ").

The same is agreed to.

It is moved by the Marquess of Linlithgow. Line 48, to leave out (" State Rulers ") and to insert (" Princes ").

The same is agreed to.

Paragraph 39 is again read, as amended.

The further consideration of paragraph 39 is postponed.

Paragraph 40 is again read.

It is moved by the Marquess of Salisbury. Page 20e, line 3, to leave out (" (as the Statutory Commission saw) ").

The same is agreed to.

Paragraph 40 is again read, as amended.

The further consideration of paragraph 40 is postponed.

Paragraph 41 is again postponed.

Paragraph 42 is again read.

It is moved by the Marquess of Salisbury. Page 20f, lines 18 and 19, to leave out (" in form if not in substance ").

The same is agreed to.

It is moved by the Lord Snell, Mr. Attlee, Mr. Cocks, and Mr. Morgan Jones. Lines 19 to 21, to leave out from (" recommend.") in line 19 to (" But ") in line 21.

The amendment, by leave of the Committee, is withdrawn.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 20f, line 20, to leave out (" party ") and to insert (" section of opinion ").

The same is agreed to.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 20f, line 21, to leave out (" of any kind must ") and to insert (" appears to ").

The same is agreed to.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 20f, line 31, to leave out ("at least indicated possibilities") and to insert ("shown their "willingness to go much further than seemed possible at the time of the "Statutory Commission's Report in the direction").

The same is agreed to.

It is moved by Sir Samuel Hoare and Mr Butler Page 20f, lines 33 to 35, to leave out from ("Federation") in line 33 to the end of the sentence.

The same is agreed to.

Paragraph 42 is again read, as amended.

The further consideration of paragraph 42 is postponed

Paragraph 42A is again postponed

Paragraph 42B is again read.

It is moved by Sir Samuel Hoare on behalf of the Viscount Halifax. Page 20g, line 30, to leave out ("of a people") and to insert ("that are engaged").

The amendment, by leave of the Committee, is withdrawn.

Paragraph 42B is again read.

The further consideration of paragraph 42B is postponed.

Paragraph 43 is again postponed.

Paragraph 44 is again read.

It is moved by the Lord Hardinge of Penshurst Page 21, line 18, to leave out ("is well enough") and to insert ("will serve").

The same is agreed to.

Paragraph 44 is again read, as amended

The further consideration of paragraph 44 is postponed

Paragraph 45 is again postponed

Paragraph 46 is again read

It is moved by the Marquess of Linlithgow Page 22, line 4, to leave out ("a Governor") and to insert ("an Executive").

The same is agreed to

Paragraph 46 is again read, as postponed

The further consideration of paragraph 46 is again postponed

Paragraphs 47 to 51 are again postponed.

Paragraph 52 is again read.

It is moved by the Lord Rankeillour. Page 25, line 20, at the end to insert ("It will be necessary under this plan to make provision for the formal record "of the Governor General's decisions as having statutory force")

The same is agreed to.

Paragraph 52 is again read, as amended.

The further consideration of paragraph 52 is postponed.

Paragraphs 53 and 54 is again postponed.

Paragraph 55 is again read.

It is moved by the Marquess of Linlithgow. Page 26, line 23, after ("conclusion") to insert (", as we have already indicated").

The same is agreed to.

Paragraph 55 is again read, as amended.

The further consideration of paragraph 55 is postponed.

Paragraph 56 is again postponed.

Paragraph 57 is again read.

It is moved by the Marquess of Linlithgow, the Marquess of Zetland and Mr. Cocks Page 27, line 17, to leave out ("over").

The same is agreed to.

Paragraph 57 is again read, as amended.

The further consideration of paragraph 57 is postponed.

Paragraphs 58 and 59 are again postponed.

Paragraph 60 is again read.

It is moved by Mr. Attlee. Page 29, lines 5 to 9, to leave out from ("controversy;") in line 5 to the end of the sentence and to insert ("the "question has been re examined by the Secretary of State for India with the "assistance of several of our members and we recommend that the boundaries "should be in accordance with the conclusions[1] thus reached, namely that "there should be added to the Province as defined in the White Paper.[2]

(a) that portion of the Jeypore Estate which the Orissa Committee of 1932 recommended should be transferred to Orissa:

(b) the Parlakimedi and Jalantra Maliahs,

(c) a small portion of the Parlakimedi Estate, including Parlakimedi Town.")

The same is agreed to

Paragraph 60 is again read as amended.

The further consideration of paragraph 60 is postponed.

Paragraphs 61 to 67 are again postponed.

Paragraph 68 is again read. It is moved by Mr. Attlee, Mr. Cocks, Mr. Morgan Jones, and the Lord Snell. Page 32, lines 18 to 25, to leave out from ("otherwise") in line 18 to the end of the paragraph.

The amendment, by leave of the Committee, is withdrawn.

Paragraph 68 is again read as amended.

The further consideration of paragraph 68 is postponed.

[1] *Vide* Record No.

[2] Proposal 61, second paragraph.

Paragraphs 69 and 70 are again postponed.

Paragraph 71 is again read.

It is moved by the Lord Middleton. Page 33, line 37, to leave out ("public").

The same is agreed to.

Paragraph 71 is again read, as amended.

The further consideration of paragraph 71 is postponed.

Paragraph 72 is again read.

It is moved by Sir Samuel Hoare on behalf of the Viscount Halifax. Page 34, line 14, to leave out ("readily admit") and to insert ('consider').

The same is agreed to.

Paragraph 72 is again read, as amended.

The further consideration of paragraph 72 is postponed

Paragraph 73 is again read

It is moved by Mr Cocks, Mr Attlee, Mr Morgan Jones, and the Lord Snell. Page 34, lines 28 and 29, to leave out from ('Governor') in line 28 to ("consult") in line 29, and to insert ("should as a general rule").

The same is disagreed to

It is moved by the Lord Eustace Percy. Page 34, lines 34 and 35, to leave out ("Indian constitutional problem') and to insert ("evolution of the "Indian Constitution").

The same is agreed to

It is moved by the Lord Eustace Percy. Page 34, line 35, to leave out ("in the case of India").

The same is agreed to.

It is moved by the Lord Eustace Percy. Page 34, line 36, to leave out the second ("the") and to insert ("its").

The same is agreed to.

It is moved by the Lord Eustace Percy. Page 34, line 37, to leave out ("of that evolution").

The same is agreed to.

Paragraph 73 is again read, as amended.

The further consideration of paragraph 73 is again postponed.

Paragraphs 74 and 75 are again postponed.

Paragraph 76 is again read.

It is moved by Mr Morgan Jones, Mr Attlee, Mr Cocks, and the Lord Snell Page 35, lines 36 to 42, to leave out from ("Order") in line 36 to ("justification") in line 42, and to insert ("We accept the first of these "suggestions as we feel that in view of the importance of doing nothing to "weaken the sense of responsibility in Ministers and Legislatures the powers "of intervention given to the Governor under this sub section should be more "strictly defined and should not be drawn in terms which would enable him "to step in and overrule his ministers in a very wide field We see, however, "no")

Objected to

On Question

Contents (5)	Not Contents (19)
Lord Snell	Lord Archbishop of Canterbury
Mr Attlee	Marquess of Salisbury
Mr Cocks	Marquess of Zetland
Mr Foot	Marquess of Linlithgow
Mr Morgan Jones	Earl of Derby
	Earl of Lytton
	Earl Peel
	Lord Middleton
	Lord Hardinge of Penshurst
	Lord Rankeillour
	Mr Butler
	Major Cadogan
	Sir Austen Chamberlain
	Sir Reginald Craddock
	Mr Davidson
	Sir Samuel Hoare
	Lord Eustace Percy
	Sir John Wardlaw Milne
	Earl Winterton

The said amendment is disagreed to

Paragraph 76 is again read, as amended

The further consideration of paragraph 76 is postponed

Paragraphs 77 and 78 are again postponed

Paragraph 79 is read, as amended and is as follows

Special circumstances of North West Frontier Province and Sind.

"79 With regard to (h), it is apparent that the close connection between the Governor's responsibilities within the administered districts of his Province and the responsibilities of the Governor General exercised through the person of the Governor in his other capacity as Agent-General for the Tribal Tracts on the borders of the Province makes a provision of this kind necessary With regard to (i), we agree that this special responsibility is necessary in the case of Sind, in view of the vital influence upon the future finances of the Province of the successful operation of the Sukkur irrigation scheme and of the large financial interest which the Central Government has in it

"But, in our opinion, the two proposals in the White Paper which have reference to special circumstances in particular Provinces do not exhaust the requirements of this kind It has come to our notice that, under the system of joint administration of the Districts known as the Berars with the Central Provinces which has obtained for many years,

and which, as we have already pointed out[1] will continue under the new Constitution, there has been a tendency on the part of the inhabitants of the Berars, and of their representatives in the Legislature, to criticise the apportionment between the two areas forming the joint Province as favouring unduly the Central Provinces area to the disadvantage of the Berars. We express no option as to the justification for such criticisms, but it is evident that, under a system of responsible government, the scope for grievances on this account may well be increased. We think, therefore, that the Governor of the joint Province should have imposed upon him a special responsibility and should thus be enabled to counteract any proposals of his Ministry which he regards as likely to give justifiable ground for complaint on this account. Without attempting to usurp the functions of the draftsman we suggest that the purpose we have in view would be adequately expressed in defining the special responsibility in some such terms as

'The expenditure in the Berars of a reasonable share of the revenues raised for the joint purposes of the Berars and the Central Provinces.

"We think moreover that the Governor might appropriately be directed in his Instrument of Instructions to constitute some impartial body to advise him on the principles which should be followed in the distribution of revenues if he is not satisfied that past practice affords an adequate guide for his Ministers and himself for the discharge of the special responsibility imposed upon him in respect of them.

We also think that the special position of the Berars should be recognised by requiring the Governor through his Instrument of Instructions to interpret his special responsibility for "the protection of the rights of any Indian State" as involving *inter alia* an obligation upon him in the administration of the Berars to have due regard to the commercial and economic interests of the State of Hyderabad."

It is moved by the Marquess of Linlithgow: Line 19, after ("apportionment") to insert ("of expenditure").

The same is agreed to.

Paragraph 79 is again read, as amended.

The further consideration of paragraph 79 is postponed.

Paragraph 79A is read, as amended, and is as follows:

A special responsibility for safeguarding financial stability of Province not recommended.

79A. We think it desirable to make some reference to the suggestion that among the special responsibilities of the Governor should be included the safeguarding of the financial stability and credit of the Province, following the analogy of the special responsibility of this kind which, as we shall explain later, we recommend should be imposed on the Governor-General in relation to the Federation.[1] A similar proposal was examined and rejected by the Statutory Commission on the ground that a power of intervention over so wide a field would hinder the growth of responsibility.[2] We agree with this view. The other special responsibilities which we recommend will give the Governor adequate powers in relation to supply and taxation to ensure that their due discharge is not impeded by lack of financial resources; we refer specially to one aspect of this matter below.[3] But the addition of a special financial responsibility would increase enormously the range of his special powers. There is no real parallel with the situation at the Centre where there is paramount

[1] *Infra*, paras. 165 and 167.
[2] Report, Vol. II, para. 189.
[3] *Infra*, paras. 203—207, 99 and 103.

necessity to avoid action which might prejudice the credit of India as a whole in the money markets of the world, and where so considerable a proportion of the revenues are needed for the expenditure of the reserved departments[4] The Statutory Commission point out[3] that the Central Government, through their powers of control over Provincial Borrowing, should be able to exercise a salutary influence over Provinces. We also attach importance to this method of checking improvidence on the part of a Province, and, as we explain below,[5] we approve, subject to one modification, the proposals in the White Paper for the regulation of provincial borrowing.

It is moved by the Lord Eustace Percy. Lines 9 and 10 to leave out from ("view.") in line 9 to ("will") in line 10 to insert ("We shall "have certain recommendations to make below which").

The same is agreed to.

It is moved by the Lord Eustace Percy. Line 11, to leave out ("their") and to insert ("the") and after ("discharge") to insert ("of his special responsibilities").

The same is agreed to.

It is moved by the Lord Eustace Percy. Lines 12 and 13, to leave out from ("resources") in line 13 to the end of the sentence.

The same is agreed to.

Paragraph 79A is again read.

The further consideration of paragraph 79A is postponed.

Paragraphs 80 and 81 are again postponed.

Paragraph 82 is again read.

It is moved by the Marquess of Linlithgow. Page 38, lines 16 and 17, to leave out ("constitutional").

The same is agreed to.

Paragraph 82 is again read, as amended.

The further consideration of paragraph 82 is postponed.

Paragraph 83 is again read, as amended, and is as follows:—

Suggested methods for meeting difficulty.

"83. We have considered various suggestions to meet this difficulty: (1) that the Governor should be empowered, if he thought fit, to appoint a Minister from outside the Legislature, the Minister so appointed having precisely the same status as other Ministers and sharing their policy and political fortunes, with the right to take part in all proceedings of the Legislature, though not entitled to vote; (2) that in addition to the elected members, there should be one or two members nominated by the Governor, who would be eligible for appointment as Ministers, though not necessarily so appointed; (3) that the Governor should be empowered, if he desired to have an outside Minister, to nominate the person whom he selected as a member *ad hoc* of the Legislature; and (4) that the Ministers themselves should be empowered,

[4] *Infra*, para. 179.
[5] *Infra*, para. 262.

if so requested by the Governor, to co-opt someone from outside and present him to the Governor for appointment. We can see no advantage, and many disadvantages, in the second and third of these suggestions, and the fourth is open to the grave objection that it would infringe the Governor's prerogative. The only plan, therefore, which, in our opinion, merits consideration is the first. We have, however, come to the conclusion that such advantages as might be anticipated from a provision in the Constitution Act enabling the Governor to appoint to his Ministry one or more persons who are not members of the Legislature would weigh little in the balance against the dislike and suspicion with which such a provision would undoubtedly be viewed almost universally in India—a dislike and suspicion so strong that we think it unlikely that any Governor would, in fact, find it possible to exercise such a power. We recommend, therefore, that the proposal in the White Paper to which we have alluded[1] should remain unchanged."

It is moved by Sir John Wardlaw-Milne. Line 25, to leave out ("possible", and to insert ("desirable").

The amendment, by leave of the Committee, is withdrawn.

Paragraph 83 is again read.

The further consideration of paragraph 83 is postponed.

Paragraph 85 is again read.

It is moved by Mr. Cocks, Mr. Attlee, Mr. Morgan Jones, and the Lord Snell. Page 40, line 13, to leave out from ("he") to ("consult") and to insert ("should as a general rule").

The amendment, by leave of the Committee, is withdrawn.

Paragraph 85 is again read, as amended.

The further consideration of paragraph 85 is postponed.

Paragraph 86 is again read.

It is moved by the Marquess of Zetland. Page 40, line 32, to leave out ("depends") and to insert ("depend").

The same is agreed to.

Paragraph 86 is again read, as amended.

The further consideration of paragraph 86 is postponed.

Paragraph 87 is read as amended, and is as follows :—

Control of law and order an essential attribute of responsible government.

"87. We find ourselves unable to conceive a government to which the
2 quality of responsibility could be attributed, if it had no responsibility for order. In no other sphere has the word 'responsibility" so profound and significant a meaning; and nothing will afford Indians the

opportunity of demonstrating more conclusively their fitness to govern themselves than their action in this sphere From one point of view indeed the transfer of those functions to an Indian Minister may be in the interest of the police themselves, when it will no longer be possible to attack, as they have been attacked in the past, as agents of oppression acting on behalf of an alien power , but we prefer to base our conclusion upon the broader grounds indicated above Nevertheless, it must not be supposed that we are blind to the risks implicit in the course which we advocate for these in our opinion, cannot be regarded lightly or as the phantoms of a reactionary imagination The qualities most essential in a police force, discipline, impartiality, and confidence in its officers, are precisely those which would be most quickly undermined by any suspicion of political influence or pressure exercised from above and it would indeed be disastrous if in any Province the police force, to whose constancy and discipline in most difficult circumstances India owes a debt not easily to be repaid, were to be sacrificed to the exigencies of a party or to appease the political supporters of a Minister If, therefore, the transfer is to be made, as we think it should it is essential that the Force should be protected so far as possible against these risks, and in the following paragraphs we make recommendations designed to secure this protection "

It is moved by the Lord Eustace Percy. Line 2, after (" for ") to insert (" public ")

The same is agreed to

Paragraph 87 is again read, as amended

The further consideration of paragraph 87 is postponed.

Paragraph 88 is read, as amended and is as follows -

The Governor's special responsibility

" 88 First there are the proposals already made in the White Paper The Governor is to have a special responsibility for the prevention of any grave menace to the peace or tranquillity of the Province or any part thereof ' The effect of this, as of all other special responsibilities is to enable the Governor if he thinks that the due discharge of his special responsibility so requires to reject any proposals of his Ministers or himself to initiate action which his Ministers decline to take Further there flows from this special responsibility, not only the right to overrule his Ministers but also special powers legislative and financial to enable him to carry into execution any course of action which requires legislative provision or the provision of supply If, therefore the Governor should be of opinion that the action or inaction of Ministers is jeopardising the peace or tranquillity of the Province, it will be his duty to take action to meet the situation If the situation is one requiring immediate action he will issue any executive order which he may consider necessary. If the situation is one which cannot be dealt with by an isolated executive order if the Minister in charge of the Department appears unable to administer his charge on lines which the Governor regards as consistent with the due discharge of his special responsibility the Governor will dismiss and replace the Minister (and, if necessary the Ministers as a body, with or 20
without resort to a dissolution of the Legislature) If he fails to find an alternative Government capable of administering Law and Order on 22
lines consistent with the discharge of his special responsibility, he will be obliged to declare a breakdown of the constitution, and to assume to himself all such powers as he judges requisite to retrieve the situation. We are not contemplating such a course of events as probable , but, if 27
it occurs, provision is made to meet it."

It is moved by the Marquess of Zetland Lines 20 and 22, to leave out the brackets, and to leave out the second ("and") in line 20 and to insert ("or").

The same is agreed to

It is moved by the Marquess of Linlithgow Line 27 to after ("occurs,") to insert ("we point out that")

The same is agreed to

Paragraph 88 is again read, as amended

The further consideration of paragraph 88 is postponed

Paragraph 89 is read as amended, and is as follows

The Police Rules.

"89 We turn now to our own further recommendations for the
specific protection of the Police Force itself Of course the due
discharge of his special responsibility for peace and tranquillity
will, in itself entitle the Governor to intervene immediately if by
reason of ill timed measures of economy or the attempted exertion
of political influence on the Police Force or from any other cause,
the morale or the efficiency of that Force is endangered Further
the Governor has another special responsibility it is his duty to
secure to the members of the Police as of other Public Services,
any rights provided for them by the Constitution Act and to safe
guard their legitimate interests These are important safeguards
11 but there is a special factor in police administration which requires
to be specially protected We refer to the body of Regulations
known as the Police Rules promulgated from time to time under
powers given by the various Police Acts A large number of the
Rules deal with matters of quite minor importance and are con
stantly amended in practice on the responsibility of the Inspector
General of Police himself It would be unnecessary to require the
Governor's consent to every amendment of this kind But the
subject matter of some of the Rules is so vital to the well being
of the Police Force that they ought not in our opinion to be
amended without the Governor's consent and the same considera
tions apply *a fortiori* to the Acts themselves which form the statu
22 tory basis of the Rules Our aim should be to ensure that the
internal organisation and discipline of the Police continue to be
regulated by the Inspector General and to protect both him and
the Ministers themselves from political pressure in this vital field
26 We therefore, recommend that the consent of the Governor given
in his discretion should be required to any legislation which would
amend or repeal the General Police Act in force in the Province or
any other Police Acts (such as the Bombay City Police Act the
Calcutta Police Act, the Madras City Police Act and Acts regulat
ing Military Police in Provinces where such forces exist) We
further recommend that any requirement in any of these Acts that
Rules made under them shall be made or approved by the local
Government is to be construed as involving the consent of the
Governor, given in his discretion, to the making or amendment of
any Rules, which in his opinion relate to or affect the organ
36 isation or discipline of the Police"

It is moved by the Marquess of Linlithgow Line 11, to leave out ("a special factor") and to insert ("one element")

The same is agreed to

It is moved by the Marquess of Linlithgow Line 22 to leave out ("should be") and to insert ("is")

The same is agreed to

It is moved by the Marquess of Linlithgow Line 26, after the first ("the") to insert ("prior").

The same is agreed to.

It is moved by the Lord Rankeillour. Line 36, at the end to insert ("It will of course be open to the Governor-General in his discretion "to give directions to the Provincial Governor as to the making, main- "tenance, abrogation, or amendment of all such rules.").

The same is agreed to.

Paragraph 89 is again read, as amended.

The further consideration of paragraph 89 is postponed.

Paragraphs 90 and 91 are again postponed.

Paragraph 92 is read, as amended, and is as follows:—

Special powers required for combating terrorism.

"92. But, even so, the circumstances set out above render it imperative to arm the Governor with powers which will ensure that the measures taken to deal with terrorism and other activities of revolutionary conspirators are not less efficient and unhesitating than they have been in the past. We are, indeed, particularly anxious not to absolve Indian Ministers, in Bengal or elsewhere, from the responsibility for combating terrorism, and we think that such executive duty should be clearly laid upon them. But the issues at stake are so important, and the consequences of inaction, or even of half-hearted action, for even a short period of time, may be so disastrous, that the Governor of any Province must, in our opinion, have a special power over and above his special responsibility 'for the prevention of any grave menace to peace and tranquillity,' to take into his own hands the discharge of this duty, even from the outset of the new Constitution. This purpose would not be adequately served by placing the Special Branch of the Provincial Police alone in the personal charge of the Governor. That course has been urged upon us, but we are convinced that it falls short of what is required. Instead, we recommend that the Constitution Act should specifically empower the Governor, at his discretion, if he regards the peace and tranquillity of the Province as endangered by the activities, overt or secret, of persons committing or conspiring to commit crimes of violence intended to overthrow the Government by law established, and if he considers that the situation cannot otherwise be effectively handled, to assume charge, to such extent as he may judge requisite, of any branch of the government which he thinks it necessary to employ to combat such activities, or if necessary to create new machinery for the purpose. If the Governor exercises this power, he should be further authorised, at his discretion, to appoint an official as a temporary member of the Legislature, to act as his mouthpiece in that body, and any official so appointed should have the same powers and rights, other than the right to vote, as an elected member. The powers which we have just described would be discretionary powers, and the Governor would, therefore, be subject to the superintendence and control of the Governor-General, and ultimately of the Secretary of State, in all matters connected with them. We should add that if conditions in Bengal at the time of the inauguration of Provincial Autonomy have not materially improved, it would, in our judgment, be essential that the Governor of that Province should exercise the powers we have just described forthwith and should be directed to do so in his Instrument of Instructions which, in this as in other respects, would remain in force until amended with the consent of Parliament."[1]

It is moved by the Marquess of Linlithgow. Line 1, to leave out ("even so") and to insert ("in addition").

The same is agreed to.

It is moved by Mr. Cocks, Mr. Attlee, Mr. Morgan Jones and the Lord Snell. Lines 26 to 31, to leave out from ("purpose.") in line 26 to ("The") in line 31.

Objected to.

On Question:—

Contents (4)	Not Contents (19)
Lord Snell	Lord Archbishop of Canterbury.
Mr Attlee	Marquess of Salisbury
Mr Cocks	Marquess of Zetland
Mr Morgan Jones	Marquess of Linlithgow
	Earl of Derby
	Earl Peel
	Lord Middleton
	Lord Hardinge of Penshurst
	Lord Rankeillour
	Mr Butler
	Major Cadogan
	Sir Austen Chamberlain
	Sir Reginald Craddock
	Mr Davidson
	Mr Foot
	Sir Samuel Hoare
	Lord Eustace Percy
	Sir John Wardlaw Milne
	Earl Winterton

The said amendment is disagreed to

It is moved by the Lord Rankeillour Line 36, after ("improved") to insert ("or if similar conditions should unfortunately have arisen in any other province").

The amendment, by leave of the Committee, is withdrawn

It is moved by the Lord Rankeillour Line 40, at the end, to insert ("We think further that like powers should be exercisable by the "Governor of the North West Frontier Province if in his opinion the "security of the Frontier is endangered")

The amendment, by leave of the Committee, is withdrawn

Paragraph 92 is again read, as amended

The further consideration of paragraph 92 is postponed

Paragraph 92A is again read, as amended, and is as follows -

"92A We have only to add that we have considered in this connexion a proposal made to us that the Intelligence Departments "—or at all events the Special Branch where such exists—of the "provincial Police Forces should be placed under the control of the "Governor General, who should utilise them through the agency of "the Governor, as local offshoots of the Central Intelligence "Bureau We agree with the ideas underlying this proposal to "this extent, that it is essential that the close touch which has "hitherto obtained between the Intelligence Departments of the "Provinces and the Central Intelligence Bureau should continue "But to place the Provincial Intelligence Departments under the "departmental control of the Central Intelligence Bureau would, "we think, be undesirable, as tending to break up the organic
14 "unity of the provincial Police Force We recommend, therefore, "that the Central Bureau should, under the new Constitution, be Central Intelligence Bureau.

"assigned to one of the Governor General's Reserved Departments "as part of its normal activities, and that the change in the form 17 "of government, whether at the Centre or in the Provinces, should "not involve any change in the relationship which at present "exists between the Central Bureau and the provincial Intelli- "gence Departments. Should the Governor-General find that the "information at his disposal, whether received through the channel "of the Governors or from the provincial Intelligence Departments "through the Central Intelligence Bureau, is inadequate, he will, "in virtue of recommendations which we make later possess com- "plete authority to secure through the Governor the correction of "any deficiencies, and indeed to point out to the Governor, and "require him to set right, any shortcomings which he may have "noticed in the organisation or activities of the provincial Intelli- "gence Branch.

It is moved by the Lord Archbishop of Canterbury. Lines 14 to 17, to leave out from ("therefore") in line 14 to ("that") in line 17.

The amendment, by leave of the Committee, is withdrawn.

Paragraph 92A is again read.

The further consideration of paragraph 92A is postponed.

Paragraph 93 is again postponed.

Paragraph 94 is again read.

It is moved by the Lord Eustace Percy. Page 45, line 15, to leave out ("; and") and to insert a full stop.

The same is agreed to.

It is moved by the Lord Eustace Percy. Page 45, line 16, to leave out ("will") and to insert ("must continue to").

The same is agreed to.

It is moved by the Lord Eustace Percy. Page 45, line 17, to leave out ("time. No") and to insert ("time, though no").

The same is agreed to.

It is moved by the Lord Eustace Percy. Page 45, line 18, to leave out ("a different") and to insert ("the new").

The same is agreed to.

It is moved by the Lord Eustace Percy. Page 45, line 25, to leave out ("Nevertheless") and to insert ("Beyond this however").

The same is agreed to.

Paragraph 94 is again read, as amended.

The further consideration of paragraph 94 is postponed.

Paragraph 95 is again postponed.

Paragraph 96 is again read.

It is moved by Sir John Wardlaw-Milne. Page 46, line 46, to leave out ("we") and to insert ("with duties of a wider and more "responsible character. We").

The same is agreed to.

Paragraph 96 is again read, as amended.

The further consideration of paragraph 96 is postponed.

Paragraph 97 is again read.

It is moved by Sir John Wardlaw-Milne and the Lord Middleton. Page 47, line 20, to leave out ("elsewhere").

The same is agreed to.

Paragraph 97 is again read, as amended.

The further consideration of paragraph 97 is postponed.

Paragraph 98 is again read.

It is moved by the Lord Eustace Percy. Page 47, lines 22 to 24, to leave out from ("that") in line 22 to ("in") in line 24 and to insert ("purely executive action may not always suffice for the due "discharge of the Governor's special responsibilities").

The same is agreed to.

Paragraph 98 is again read as amended.

The further consideration of paragraph 98 is postponed.

Paragraph 99 is again postponed.

Paragraph 101 is read, as amended, and is as follows:

Modification of White Paper Proposal suggested.

101 We observe that the White Paper proposes that whereas temporary Ordinances, if extended beyond six months, are to be laid before Parliament,[1] there is no similar proposal in the case of Governor's Acts. We consider that all Governor's Acts should be
5 laid before Parliament and that the Governor before legislating should have the concurrence of the Governor-General.

It is moved by the Lord Archbishop of Canterbury. Line 5, after ("legislating") to insert ("or notifying his intention to legislate").

The same is agreed to.

Paragraph 101 is again read, as amended.

The further consideration of paragraph 101 is postponed.

Paragraph 102 is read, as amended, and is as follows:

Ordinances.

102 The next special power which it is proposed to give the Governor is the power (for use in emergencies) of issuing temporary Ordinances, to be valid for not more than six months in the first instance, but renewable once for a similar period. At the present time, this power is only exercisable whether for a single Province or for the whole of British India by the Governor General; but we cannot doubt that in an autonomous Province it should in future be vested in the Governor himself. It was urged by the British India
9 Delegation that the power should continue to be vested in the Gover-
10 nor General and we agree that his concurrence should be obtained.

It is moved by the Marquess of Zetland. Line 9, after ("and") to insert ("although we are unable to accept this proposal in its "entirety").

The same is agreed to.

It is moved by Mr. Cocks, Mr. Attlee, Mr. Morgan Jones, and the Lord Snell. Lines 9 and 10, to leave out from ("agree") in line 9 to ("should") in line 10, and to insert ("that all temporary ordinances if "extended beyond six months should be laid before Parliament and "that the concurrence of the "Governor-General").

The same is agreed to.

Paragraph 102 is again read, as amended.

The further consideration of paragraph 102 is postponed.

Paragraphs 103 and 104 are again postponed.

Paragraph 105 is again read.

It is moved by Sir Reginald Craddock. Page 51, line 43, after ("require") to insert ("for example the nomination of a Legislature "to function until the ordinary Constitution is restored.")

The amendment, by leave of the Committee, is withdrawn.

Paragraph 105 is again read, as amended.

The further consideration of paragraph 105 is postponed.

Paragraph 106 is again read.

It is moved by Sir Austen Chamberlain. Page 51, line 47, after ("Governor General") to insert ("acting in his discretion").

The same is agreed to.

It is moved by the Lord Eustace Percy. Page 52, lines 2 and 3, to leave out from ("and") to the end of the paragraph and to insert ("its importance, particularly in the event, or the danger, of a com "plete or partial breakdown in the working of the Constitution in "a Province, has already been indicated in the first section of our "Report,[1] where we speak of the interaction of the Governor-General's "and the Governors' special powers and responsibilities. We shall "have to consider another aspect of this subject in a later part of our "Report.[2] It is unnecessary for us to comment on it further here.")

The same is agreed to.

Paragraph 106 is again read, as amended.

The further consideration of paragraph 106 is postponed.

Paragraph 107 is again read, as amended, and is as follows:—

Vital importance of Executive in India.

"107. In the preceding paragraphs we have approved the proposal of the White Paper to entrust certain wide discretionary powers to the Governor, and we have recommended that, in certain respects, those powers should be strengthened and extended. We should not wish to pass from this subject without some general review of the broad considerations which have led us to these conclusions The dominant consideration is the one which we have already emphasised: the vital importance in India of a strong Executive It has seemed to us in the course of our discussions with the British India delegates that in their anxiety to increase the prerogatives of the Legislature, they have been apt to overlook the functions of the Executive, an attitude not perhaps authority of the latter and to weaken the sense of responsibility offers the main field of political activity. But if the responsibility for government is henceforward to be borne by Indians themselves they will do well to remember that to magnify the Legislature at the expense of the Executive is to diminish the authority of the latter and to weaken the sense of responsibility of both. The function of the executive is to govern and to administer; that of the Legislature to vote supply, to criticize, to educate public opinion, and to legislate; and great mischief may result from attempts by the latter to invade the executive sphere. The belief that parliamentary government is incompatible with a

[1] *Supra*, paragraph 40.

[2] *Infra*, paragraphs 220-222. *See* also *supra*, paragraph 92A.

strong Executive is no doubt responsible for the distrust with
which parliamentary institutions have come to be regarded in many
parts of the world. The United Kingdom affords a sufficient
proof that a strong Executive may co-exist even with an omni-
potent Parliament if the necessary conditions are present; and
the strength of the Executive in this country may, we think, be
attributed with not more justice to the support of a disciplined
party than to the inveterate and cherished tradition of Parliament
29 that the prerogatives of the Legislature are not jealously or
factiously asserted in such a way as to prevent the King's Govern-
ment from being carried on. 'His Majesty's Opposition' is not an
idle phrase, but embodies a constitutional doctrine of great signi-
ficance."

It is moved by The Marquess of Linlithgow Line 29, after ("not") to insert ("to be").

The same is agreed to.

Paragraph 107 is again read, as amended

The further consideration of paragraph 107 is postponed

Paragraph 108 is again read, and is as follows:—

Difficulties created by communal representation in Ministries.

"108. It is a commonplace that this tradition is as yet unknown
in India and that Indian Ministries have not hitherto been able to
rely on the support of a disciplined party. The Statutory Commis
sion, in surveying the work of the existing Provincial Constitution,
observed that Governors, in choosing their Ministers have had an
6 exceptionally difficult task It could seldom be predicted what
following a Minister would have in the Legislature, quite apart
from the fact that his acceptance of office was often followed, owing
to personal rivalries, by the detachment of some of his previous
adherents. It has been urged upon us by the members of the
British India Delegation that these difficulties will tend to disappear
under responsible government. We hope that it will be so, and
neither we nor the Statutory Commission would have recommended
that the experiment should be made if we were not satisfied that
under no other system can Indians come to appreciate the value
of the tradition of which we have spoken. But it must be remem-
bered that in two respects the difficulties of Provincial Ministries
in the future may be greater than in the past In the first place,
they will not in future be able to rely upon the official bloc which,
in the words of the Statutory Commission has helped to decrease
the instability of the balance of existing groups in the Legislature
and has made the tenure of office of Ministers far less precarious.'
22 In the second place, each Ministry will, as we have already pointed
23 out, be a composite one The Legislatures will be based on a
system of communal representation, and the Governor will be
directed by his Instrument of Instructions to include in his
Ministry, so far as possible, members of important minority com-
munities. A Ministry thus formed must tend to be the
representative, not, as in the United Kingdom, of a single majority
28 Party or even of a coalition of Parties, but of minorities as such.
29 Moreover, the system of communal representation may also tend
to render less effective the weapon to which, under most parlia-
mentary constitutions, the executive resorts when confronted by an
obstructive legislature, the weapon of dissolution: for under such
a system even a general election may well produce a legislature
with the same complexion as its predecessor."

It is moved by the Marquess of Linlithgow. Line 6, after ("task.") to insert ("and that").

The amendment, by leave of the Committee, is withdrawn.

It is moved by Mr. Attlee, Mr. Cocks, Mr. Morgan Jones, and the Lord Snell. Line 22, to leave out ("will") and to insert ("may").

The same is agreed to.

It is moved by Mr. Attlee, Mr. Cocks, Mr. Morgan Jones, and the Lord Snell. Lines 23 to 29, to leave out from the beginning of line 23 to ("Moreover") in lines 28 and 29

The same is disagreed to

It is moved by the Marquess of Linlithgow. Line 28, after ("but") to insert ("also")

The same is agreed to

Paragraph 108 is again read, as amended

The further consideration of paragraph 108 is postponed

Paragraphs 109 and 110 are again postponed

Ordered that the Committee be adjourned till to morrow at Three o'clock.

Die Martis 9° Octobris 1934

Present

LORD ARCHBISHOP OF CANTERBURY
MARQUESS OF ZETLAND
MARQUESS OF LINLITHGOW
EARL OF DERBY
EARL OF LYTTON
EARL PEEL
LORD MIDDLETON
LORD HARDINGE OF PENSHURST
LORD SNELL
LORD RANKEILLOUR
LORD HUTCHISON OF MONTROSE

MR ATTLEE
MR BUTLER
MAJOR CADOGAN
SIR AUSTEN CHAMBERLAIN
MR COCKS
SIR REGINALD CRADDOCK
MR DAVIDSON
MR FOOT
SIR SAMUEL HOARE
MR MORGAN JONES
SIR JOSEPH NALL
LORD EUSTACE PERCY
SIR JOHN WARDLAW-MILNE
EARL WINTERTON

THE MARQUESS OF LINLITHGOW in the Chair

The Order of Adjournment is read

The Proceedings of yesterday are read

Paragraph 116 is again read

It is moved by the Lord Eustace Percy Page 57, to leave out paragraph 116

The amendment, by leave of the Committee, is withdrawn

It is moved by the Marquess of Linlithgow Page 57, lines 13 to 15, to leave out from ('Government') in line 13 to ("postulates") in line 15

The same is agreed to

It is moved by the Marquess of Linlithgow Page 57, lines 16 to 18, to leave out from ('create') in line 16 to the end of the sentence

The same is agreed to

Paragraph 116 is again read, as amended

The further consideration of paragraph 116 is postponed

Paragraph 117 is again postponed

Paragraph 118 is again read, and is as follows —

118 We are of opinion that Legislative Councils should also be "established in Bombay and Madras, where the conditions are substantially the same as in Bengal and the United Provinces We see "no reason for giving an exceptional power to the Provincial "Legislatures to amend the Constitution in this one respect, and we "think that the abolition or creation of a Legislative Council should, "instead, be included among the questions on which as we shall "later propose in our Report,[2] a Provincial Legislature shall have a "special right to present an address to the Governor for submission "to His Majesty and to Parliament Apart from these alterations we "concur in the proposals of the White Paper, subject to certain

Second Chambers suggested for Bombay and Madras.

[2] *Infra*, paras 356 and 357

All amendments are to the Draft Report (see this volume paras 1—42B, pp. 470—491, and paras 43—453 pp 64-251) and NOT to the Report as published

A Key is attached (*see* p 627 *et seq*), showing on which pages of the Proceedings amendments to each paragraph can be found.

"small changes in the composition of the Legislative Councils in "Bengal, the United Provinces, and Bihar; and our recommenda- 13
"tions for all five Councils are set out in an Appendix to this part of "our Report.[5]"

It is moved by Mr. Cocks, Mr. Attlee, Mr. Morgan Jones, and the Lord Snell. Lines 1 to 3, to leave out from the beginning of the paragraph to ("We") in line 3.

Objected to.

On Question: –

Contents (4).	Not Contents (18).
Lord Snell.	Lord Archbishop of Canterbury.
Mr. Attlee.	Marquess of Zetland.
Mr. Cocks.	Marquess of Linlithgow.
Mr. Morgan Jones.	Earl of Derby.
	Lord Middleton.
	Lord Hardinge of Penshurst.
	Lord Rankeillour.
	Lord Hutchison of Montrose
	Mr. Butler.
	Major Cadogan.
	Sir Austen Chamberlain.
	Sir Reginald Craddock.
	Mr. Davidson.
	Mr. Foot.
	Sir Samuel Hoare.
	Sir Joseph Nall.
	Lord Eustace Percy.
	Sir John Wardlaw-Milne.

The said amendment is disagreed to.

It is moved by Mr. Cocks, Mr. Attlee, Mr. Morgan Jones, and the Lord Snell. Line 1, after ("that") to insert ("subject to a request to "that effect being received from the Provincial legislatures of Bombay "or Madras").

The same is disagreed to.

It is moved by Mr. Cocks, Mr. Attlee, and the Lord Snell. Line 2, to leave out ("Bombay and Madras") and to insert ("those Provinces").

The same is disagreed to.

It is moved by the Lord Rankeillour. Lines 10 to 13, to leave out from ("Parliament") in line 10 to ("our") in line 13.

The same is agreed to.

Paragraph 118 is again read, as amended.

The further consideration of paragraph 118 is postponed.

Paragraphs 119 and 120 are again postponed.

Paragraph 121 is again read.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 59, lines 28 and 29 to leave out from ("minority;") in line 28 to ("we") in line 29 and to insert ("and we understand that recently there has been a growing "tendency in some influential sections of the Hindu community to attack "the foundation of the Award. Nevertheless, it is clear to us that there

[5] *Infra*, page 73.

"is among almost all the communities in India (not excepting the Hindu) "a very considerable degree of acquiescence in the Award in the absence "of any solution agreed between the communities; in fact,").

The same is agreed to.

It is moved by Sir John Wardlaw-Milne. Page 59, lines 29 and 30, to leave out from ("acceptance") in line 29 to the end of the sentence.

The amendment, by leave of the Committee, is withdrawn.

Paragraph 121 is again read as amended.

The further consideration of paragraph 121 is postponed.

Paragraph 121A is again read and is as follows:-

"121A. We have given careful consideration in this connexion to the **Special interests seats**
number of seats to be allotted to special interests and in particular
to representations submitted to us in favour of a substantial increase
in the number of seats to be allotted to Labour in the new Provincial
Legislatures. Any material alteration in the number of seats allotted
to special interests would inevitably involve a reopening of the Com-
7 munal Award, and we have indicated above the objections to this.
But we are in any case of opinion that the representation proposed
in the White Paper for landlords, commerce and industry, universities
and labour, may be regarded as striking a just balance between the
claims of the various interests, and as affording an adequate repre-
sentation for them. We observe in particular that the representation
of labour has been increased from 9 seats in the present Provincial
Legislative Councils to a total of 38, the present marked difference
between the representation of labour and of commerce and industry
being thus very substantially reduced. Having regard to this, to the
large number of seats set aside for the Depressed Classes (whose
representatives will to some extent at any rate represent labour
interests), and to the extension of the franchise, which will bring on
the electoral roll large numbers of the poorer and of the labouring
classes, we are of opinion that the position of labour, the importance
of which we fully recognise, is adequately safeguarded under the pro-
22 posals embodied in the White Paper."

It is moved by the Lord Snell, Mr. Attlee, Mr Cocks, and Mr. Morgan Jones. Lines 7 to 22, to leave out from ("this") in line 7 to the end of the paragraph and to insert ("We notice, however, that it "is proposed in the White Paper to allot 56 of these special seats to "Commerce and Industry, 37 to Landholders, and 38 to Labour, a "total of 131, and bearing in mind the view of the Indian Franchise "Committee that 'if special constituencies are retained, it should be " 'recognised that Labour has not less claim to representation than " 'employers' we are of the opinion that at least half of these seats "should be given to Labour. We therefore recommend that the re- 'presentation of Labour should be increased to 66 seats, which would "still leave 65 special seats for Landholders and Commerce and "Industry.")

Objected to.

On Question:—

Contents (4).	Not Contents (19)
Lord Snell.	Lord Archbishop of Canterbury.
Mr. Attlee.	Marquess of Zetland
Mr. Cocks.	Marquess of Linlithgow.
Mr. Morgan Jones.	Earl of Derby.
	Earl Peel.
	Lord Middleton.

Contents (4)—*contd.*	Not Contents (19)—*contd.*
	Lord Hardinge of Penshurst.
	Lord Rankeillour.
	Lord Hutchison of Montrose.
	Mr. Butler.
	Major Cadogan.
	Sir Austen Chamberlain.
	Sir Reginald Craddock.
	Mr. Davidson.
	Mr. Foot.
	Sir Samuel Hoare.
	Sir Joseph Nall.
	Lord Eustace Percy.
	Sir John Wardlaw-Milne.

The said amendment is disagreed to.

Paragraph 121A is again read.

The further consideration of paragraph 121A is postponed.

Paragraph 122 is read, as amended, and is as follows:—

Composition of Second Chambers.

"122. The Communal Award did not extend to the Legislative
Council of any Province. The composition of these Councils which
is set out in the White Paper is however based upon the same
principles as the Communal Award; but, since the Legislative
Councils are much smaller bodies than the Legislative Assemblies
and it would be impossible therefore to provide in them for the
exact equivalent of all the interests represented in the Lower
House, it is proposed to include a certain number of seats to be
filled by nomination to be filled by the Governor at his discretion 8
and accordingly available for the purpose of redressing any possible
inequality. We think that this is a reasonable arrangement, and 10
we have included provision for it in the detailed recommendations
which are set out in the Appendix above referred to. We think
that the Legislative Council should not be dissoluble, but that
one-third of its members should retire at fixed intervals 14

It is moved by the Marquess of Zetland Line 8 to leave out ("to be filled").

The same is agreed to.

It is moved by Mr Isaac Foot Line 10, after ("inequality") to insert ("or to secure some representation to women in the Upper House").

It is moved by Mr. Cocks as an amendment to the above amendment. After ("women") to insert ("and for labour").

Objected to.

On Question:—

Contents (6).	Not Contents (16).
Lord Archbishop of Canterbury.	Marquess of Zetland.
Lord Snell.	Marquess of Linlithgow.
Mr. Attlee.	Earl of Derby.
Mr. Cocks.	Earl Peel.
Mr. Foot.	Lord Middleton.
Mr. Morgan Jones.	Lord Hardinge of Penshurst.
	Lord Rankeillour.
	Lord Hutchison of Montrose.
	Mr. Butler.

Contents (6)—*contd* | Not Contents (16)—*contd.*

Major Cadogan
Sir Reginald Craddock
Mr Davidson
Sir Samuel Hoare
Sir Joseph Nall
Lord Eustace Percy
Sir John Wardlaw Milne

Sir Austen Chamberlain did not vote

The said amendment is disagreed to

The original amendment is again moved

The same is agreed to

It is moved by the Lord Hardinge of Penshurst Line 11, at the end to insert ("of three years")

The same is agreed to

Paragraph 122 is again read, as amended

The further consideration of paragraph 122 is postponed

Paragraph 123 is again read

It is moved by the Marquess of Linlithgow Page 60, line 37, after ("Province") to insert ("except the North West Frontier Province")

The same is agreed to

Paragraph 123 is again read, as amended

The further consideration of paragraph 123 is postponed

Paragraph 124 is again read

It is moved by the Lord Middleton Page 61, line 12, to leave out ("public")

The same is agreed to

Paragraph 124 is again read, as amended

The further consideration of paragraph 124 is postponed

Paragraph 125 is read as amended and is as follows

"125 The proposals of His Majesty's Government for the Pro- *The proposals in the White Paper*
vincial Franchise are set out in Appendix V to the White Paper,
and are essentially based with certain modifications of minor
importance only save in the case of the women's franchise on the
Report of the Franchise Committee We are informed that the
proposals have the general support of the Government of India
and of the Provincial Governments The basis of the franchise
proposed is essentially as at present, a property qualification
(that is to say payment of land revenue or of rent or town
9 tenancy, or assessment to income tax) to which are added an educa-
10 tional qualification and certain special qualifications designed to
secure an adequate representation of women and to enfranchise
approximately 10 per cent of the Depressed Classes (called in Ap-
13 pendix V Scheduled Castes) by the enfranchisement of retired,
pensioned and discharged officers, non commissioned officers and
15 men of His Majesty's Regular Forces, and by the provision of a
special electorate for the seats reserved for special interests, such
as labour, landlords and commerce The individual qualifications
vary according to the circumstances of the different Provinces but
the general effect of the proposals is to enfranchise approximately
the same classes and categories of the population in all Provinces
alike"

It is moved by the Lord Eustace Percy. Line 9, to leave out ("to which are added") in line 9 and to insert ("supplemented by"), and to leave out ("and") in line 10 and to insert (", by").

The amendment, by leave of the Committee, is withdrawn.

It is moved by the Marquess of Linlithgow. Line 9, to leave out ("to which") and to insert ("to this").

The same is agreed to.

It is moved by the Marquess of Linlithgow. Line 13, to leave out ("by the enfranchisement of") and to insert ("; it is also pro-"posed to enfranchise").

The same is agreed to.

It is moved by the Marquess of Linlithgow. Line 15, to leave out ("by the provision of") and to insert ("to provide").

The same is agreed to.

It is moved by the Marquess of Zetland. Line 15, to leave out ("a") and to leave out ("electorate") and to insert ("electorates").

The same is agreed to.

Paragraph 125 is again read, as amended.

The further consideration of paragraph 125 is postponed

Paragraphs 126 and 127 are again postponed.

Paragraph 128 is again read.

It is moved by the Lord Middleton. Page 62, line 29, to leave out ("public")

The same is agreed to.

It is moved by Mr Butler and Sir Samuel Hoare. Page 62, line 35, to leave out ("method of election to the seats reserved for") and to insert ("nature of the constituencies which are to return").

The same is agreed to.

It is moved by Mr. Butler and Sir Samuel Hoare. Page 62, line 39, at the end, to insert ("We would at this stage record, however, our 'acceptance of the proposal that the seats allocated to Labour should 'be allocated in part to Trade Unions and in part to special 'Labour constituencies As regards the women's seats, we are provi 'sionally, subject to consideration of special local difficulties, in favour 'of the reservation of seats in constituencies formed for the purpose 'and containing both men and women We are inclined to think it 'desirable that those constituencies should be both urban and rural, 'and we should see no objection to their area being varied by rota-'tion should this prove to be desirable and practicable.")

The same is agreed to.

Paragraph 128 is again read, as amended.

The further consideration of paragraph 128 is postponed.

Paragraph 129 is read, as amended, and is as follows:—

Suggestions for group system of election considered.

"129 We have carefully examined a suggestion to substitute for direct election in territorial constituencies an indirect system of election by means of local groups. At first sight an arrangement of this nature would appear to have the advantage of widening the basis of the franchise, of giving an equal vote at the primary stage to every adult, of facilitating voting by the primary elector, and of securing a more experienced and intelligent secondary

elector; and having regard to these considerations, we felt it our duty, despite the fact that discussion and experiment in India had led the Indian Franchise Committee to reject it, again to consider its practicability. The effect of the evidence given before us by witnesses of great experience has however been to show that, superficially attractive as a system of group election may be, the objections to it in existing conditions in India are decisive. We have been especially impressed by the administrative difficulties involved in constituting electoral groups, given the existence of caste and the reality of the communal problem, and by the argument that faction runs so high in many Indian villages that group elections would inevitably become highly contested and that it would be necessary to provide for them all the machinery of an ordinary election. We were informed not only that conditions in the villages had changed so materially of late that the circumstances which some six or seven years ago made it justifiable to put forward a proposal for the use of the group system no longer existed, but that there was no real support for the introduction of such a system either from public or from official opinion in India. In the light of our further investigation of this question we are satisfied that in the case of the Provincial Legislatures the balance of advantage at the present moment clearly lies in retaining the system of direct election. We do not, however, desire to be understood as reporting against the introduction of some system of indirect election in the future. The considerations which we have advanced against its adoption at the present moment may lose much of their force as social conditions change, and as institutions of local self government develop in the Provinces. The problem is essentially one which Indians must consider for themselves, and on which we feel sure that Parliament will be ready to listen with the utmost attention to any recommendations which may be made to it by Provincial Legislatures."

It is moved by the Lord Middleton. Line 24, to leave out ("either from public or from official opinion") and insert ("from any quarter").

The same is agreed to.

It is moved by the Marquess of Linlithgow. Line 36, after ("it") to insert ("hereafter").

The same is agreed to.

Paragraph 129 is again read, as amended.

The further consideration of paragraph 129 is postponed.

It is moved by the Lord Archbishop of Canterbury. Page 63, after paragraph 129, to insert the following new paragraph.—

("129A. We have alluded above to the development of institutions of local self government in the Provinces. This allusion may furnish an opportunity of saying that though this subject did not come directly within the scope of our enquiry we are fully conscious of its great importance. Indeed, the progress of self government in the Provinces of India will depend on the growth not only of responsible Governments at the top, but also of local self governing institutions from the bottom—from the village community or *panchayat* upwards. It is thus that the great mass of the Indian peasantry, constituting a vast majority of the people, whose welfare has been constantly in our minds during the whole course of our discussions can be trained in those qualities of responsible citizenship which may hereafter entitle them to the full Provincial franchise. These are matters upon which Indians must form their own conclusions; but we venture to express the hope that they will, from the first, give full attention to them.")

The same is agreed to.

New paragraph 129A is again read.

The further consideration of paragraph 129A is postponed.

Paragraph 130 is again postponed.

Paragraph 131 is again read.

It is moved by the Marquess of Linlithgow. Page 64, lines 10 and 11, to leave out from ("voter") in line 10 to the end of line 11

The same is agreed to.

Paragraph 132 is again read, as amended.

The further consideration of paragraph 131 is postponed.

Paragraph 132 is again read, as amended.

It is moved by the Lord Hardinge of Penshurst. Page 65, line 6, to leave out ("voters")

The same is agreed to.

Paragraph 132 is again read, as amended.

The further consideration of paragraph 132 is postponed.

Paragraph 133 is again read

It is moved by Mr Cocks, Mr. Attlee, Mr. Morgan Jones and the Lord Snell Page 65, line 44, after ("in") to insert ("Bengal, Bihar and Orissa")

Objected to.

On question:—

Contents (6).	Not Contents (17).
Lord Snell	Lord Archbishop of Canterbury.
Mr Attlee.	Marquess of Zetland.
Sir Austen Chamberlain	Marquess of Linlithgow.
Mr. Cocks	Earl of Derby.
Mr Foot.	Earl Peel
Mr Morgan Jones.	Lord Middleton
	Lord Hardinge of Penshurst.
	Lord Rankeillour.
	Lord Hutchison of Montrose.
	Mr Butler
	Major Cadogan
	Sir Reginald Craddock.
	Mr Davidson
	Sir Samuel Hoare.
	Sir Joseph Nall.
	Lord Eustace Percy
	Sir John Wardlaw Milne.

The said amendment is disagreed to.

It is moved by Mr Cocks, Mr. Attlee, Mr. Morgan Jones, and the Lord Snell. Page 65, lines 46 and 47, to leave out from ("in") in line 46 to ("the") in line 47, and to insert ("every Province, subject, how-"ever, to further consideration in the case of the North West Frontier "Province, ").

The same is agreed to.

It is moved by Mr Cocks, Mr. Attlee, Mr. Morgan Jones, and the Lord Snell. Page 66, line 4, to leave out ("such") and to leave out ("as are possible")

The same is agreed to.

Paragraph 133 is again read as amended.

The further consideration of paragraph 133 is postponed.

Paragraph 134 is again read

It is moved by Mr. Cocks, Mr. Attlee, Mr. Morgan Jones, and the Lord Snell. Page 66, line 29, after ("practicable") to insert ("and we "express our hope that this should be before the second election under "the new constitution ").

The same is disagreed to.

Paragraph 134 is again read, as amended.

The further consideration of paragraph 134 is postponed.

Paragraphs 135 to 136 are again postponed.

It is moved by Sir Reginald Craddock. Page 67, after paragraph 136, to insert the following new paragraph:—

("136A. There is a further point in connection with the disqualification of candidates which may conveniently be mentioned here. Proposal 84 of the White Paper recites the disqualifications to be prescribed for the membership of a Provincial Legislature. Among these are included conviction for the offence of corrupt practices or other election offences, and in the case of a legal practitioner, suspension from practice by order of a competent court We observe, however, that in the election rules under the Montagu Reforms, as well as in the Morley Minto Reforms before them, the conviction of a person of certain criminal offences was a disqualification for the membership of the Legislature. On this particular point the rule ran as follows:—

'A person against whom a conviction by a Criminal Court involving a sentence of transportation or imprisonment for a period of more than one year is subsisting shall, unless the offence of which he was convicted has been pardoned, not be eligible for election for five years from the date of expiration of the sentence.

'Provided that on application made by a person disqualified the Local Government with the previous approval of the Governor-General in Council may remove the disqualification.'

"We are not clear why this rule, which has the sanction of nearly 25 years' usage behind it, should have been eliminated from the disqualifications contained in Proposal 84 of the White Paper, and we recommend its retention.")

Objected to

On Question:—

Contents (16).	Not Contents (7).
Marquess of Zetland	Lord Archbishop of Canterbury.
Marquess of Linlithgow	Lord Snell.
Earl of Derby.	Lord Hutchison of Montrose.
Earl Peel.	Mr Attlee.
Lord Middleton.	Mr. Cocks.

Contents (16)—*contd.*

Lord Hardinge of Penshurst
Lord Rankeillour.
Mr. Butler.
Major Cadogan
Sir Austen Chamberlain
Sir Reginald Craddock
Mr. Davidson
Sir Samuel Hoare
Sir Joseph Nall
Lord Eustace Percy
Sir John Wardlaw Milne

Not Contents (7)—*contd.*

Mr. Foot
Mr. Morgan Jones

The Earl of Lytton did not vote

The said amendment is agreed to

Paragraphs 137 and 138 are again postponed

Paragraph 139 is read as amended and is as follows:

"139 We do not think that the consent of the Governor should
any longer be required to the introduction of legislation which
affects religion or religious rites and usages. We take this view,
not because we think that in practice the necessity for such consent
might discourage attempts to promote valuable social reforms, which
has been suggested as a reason for dispensing with it, but because
in our judgment legislation of this kind is above all other such as
ought to be introduced on the responsibility of Indian Ministers.
We have given our reasons elsewhere for holding that matters of

The White Paper proposals approved.

social reform which may touch directly or indirectly, Indian reli-
gious beliefs can only be undertaken with any prospect of success 10
by Indian Ministers themselves, and that being so we think it
undesirable that their responsibility in this most important field
should be shared with a Governor. It has been objected that the 13
mere introduction of legislation affecting religion or religious rites
and usages might be dangerous at times of religious or communal
disturbance and might indeed itself produce such disturbance.
We observe, however, a Proposal in the White Paper[3]
whereby the Governor would be empowered, in any case in
which he considers that a Bill introduced or proposed for introduc-
tion, or any clause thereof, or any amendment to a Bill moved
or proposed, would affect the discharge of his special responsibility
for the prevention of any grave menace to the peace or tranquillity
of the Province, to direct that the Bill, clause or amendment shall
not be further proceeded with. This appears to us an ample safe- 23
guard against the danger to which we have referred and in addi-
tion it would of course always be open to the Governor, in his
discretion, to refuse his assent to any Bill which has been passed
by the Legislature, if in his opinion it is undesirable on any ground
that it should become law. We had also thought at first that a 27
Provincial Legislature ought not to be empowered (as they are not
empowered at present) to pass a law which repeals or is repugnant
to an Act of Parliament extending to British India, even though
the prior consent of the Governor to its introduction in the Legis-
lature might be required. We understand, however, that the great 31
bulk of the existing law of India is the work of Indian legislative
bodies and that there are in fact very few Acts of Parliament (apart
from those relating to subjects on which it is proposed that the
Legislatures shall have no power to legislate at all) which form
part of the Indian statute book, and fewer still dealing with matters

which will fall within the provincial sphere. In these circumstances we think that the proposal should stand; but the Governor's Instrument of Instructions might perhaps direct him to reserve bills which appear to him to fall within this category."

It is moved by the Lord Hardinge of Penshurst. Line 10, to leave out ("only") and to insert ("best") and to leave out ("any"). The same is agreed to.

It is moved by the Lord Rankeillour. Lines 13 to 28, to leave out from ("Governor.") in line 13 to ("We") in line 28 and to insert ("In saying this, however, we must guard ourselves against the "implication that the Governor's special responsibility for the "protection of the legitimate interests of minorities does not "extend to legislation as well as administration. On the contrary "it will clearly be his duty to protect all minorities from unjust "proposals in the Legislature In the case of measures introduced "by ministers we understand that it is intended that he shall have "the power of directing the withdrawal or amendment of any Bill, "and we think that this power should be made explicit in "the Constitution Act In the case of other Bills it will be open "to him by formal Message or otherwise to intimate that he will "be unable to give his assent to the proposals either in any form "or without amendment; and we note that it is already provided "that he may stop the progress of any Bill which is of so provo- "cative a nature as to involve his other special responsibility for "the peace and tranquillity of the Province. We should add that "suitable machinery should be devised to ensure that complaints "of minorities shall be brought to the notice of the Governor") The amendment, by leave of the Committee, is withdrawn.

It is moved by Sir Samuel Hoare and Mr. Butler. Line 13, after ("has") to insert ("been represented to us that the removal of the "safeguard of the Governor's previous sanction may operate to the "disadvantage of small minorities such the Indian Christians "who would not be in a position to make effective their objections "to legislation which they regarded as prejudicial. But we do not "think that the recommendation we have just made is, in fact, "open to this criticism. The Governor could always prevent the "introduction or secure the withdrawal of any legislative proposal "by his Ministers which he regarded as inconsistent with the dis "charge of his special responsibility for the protection of minorities, "and he would, in addition, be free, as indicated in the next "paragraph, to refuse his assent to any Bill which had been passed "by the Legislature if, in his opinion, it were undesirable on any "ground that it should become law. It would also be open to him "to intimate to the Legislature by Message or otherwise the attitude "which he felt bound to take to any proposal under discussion, "to the extent even of making it clear that he would be unable to "accord his assent to the proposal if the Legislature were to pass "it It has further")

The same is agreed to

It is moved by Sir Samuel Hoare and Mr Butler. Lines 22 and 23, "to leave out from ("with.") in line 23 to ("We") in line 27 "and to insert ("We understand that this proposal is, in fact, "intended to meet precisely such a situation as that just indicated— "namely a situation in which the *mere* discussion of a question "in the Legislature might itself so disturb public opinion as to "give rise to disorder. We entirely concur that the Governor "should possess such a power, but we think that his Instrument "of Instructions should make quite clear the purpose for which "it is designed, namely, that it is not primarily intended as a safe "guard against the passing into law of a measure which the "Governor considered dangerous to peace and tranquillity. For "this purpose the safeguard is the power of withholding assent.").

The same is agreed to.

It is moved by Sir Samuel Hoare and Mr. Butler. Line 31, to leave out ("Governor") and to insert ("Governor-General").

The same is agreed to.

It is moved by The Lord Middleton. Line 40, to leave out ("might perhaps") and to insert ("should").

The same is agreed to

Paragraph 139 is again read, as amended

The further consideration of paragraph 139 is postponed

Paragraph 140 is again read.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 68, line 39, after ("pleasure") to insert (", we regard this discretionary power "as a real one to be used whenever necessary")

The same is agreed to

Paragraph 140 is again read, as amended.

The further consideration of paragraph 140 is postponed

Paragraph 141 is read, as amended and is as follows

Excluded Areas.

"141. It is proposed that the powers of a Provincial Legislature shall not extend to any part of the Province which is declared to be an "Excluded Area" or a "Partially Excluded Area." In relation to the former, the Governor will himself direct and control the administration in the case of the latter he is declared to have a special responsibility In neither case will any Act of the Provincial Legislature apply to the Area unless by direction of the Governor given at his discretion with any exceptions or modifications which he may think fit The Governor will also be empowered at his discretion to make regulations having the force of law for the peace and good government of any Excluded or Partially Excluded Area, but subject in the case to the prior consent of the Governor General We have already expressed our approval of the principle of Excluded Areas, and we accept the above proposals as both necessary and reasonable,[1] so far as the Excluded Areas proper are concerned We think, however, that a distinction might well be drawn in this respect between Excluded Areas and Partially Excluded Areas, and that the application of Acts to, or the framing of Regulations for Partially Excluded Areas is an operation which might appropriately be performed by the Governor acting on the advice of his Ministers the decisions taken in each case being, of course, subject to the Governor's special responsibility for Excluded Areas that is to say, being subject to his right to differ from the proposals of his Ministers if he thinks fit"

It is moved by Sir Samuel Hoare on behalf of the Viscount Halifax, line 20, after ("for") to insert ("Partially").

The same is agreed to.

Paragraph 141 is again read, as amended

The further consideration of paragraph 141 is postponed.

Paragraph 142 is again postponed.

Paragraph 143 is again read.

It is moved by the Lord Eustace Percy. Page 69, lines 29 to 31, to leave out from ("proposal") in line 29 to ("without") in line 31 and to insert ("for the imposition of taxation or for the appropriation of "public revenues, nor any proposal affecting or imposing any charge "upon those revenues, can be made").

The same is agreed to.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 69, line 37, after ("revenue") to insert ("which require a vote of the Legisla-"ture").

The same is agreed to.

Paragraph 143 is again read.

The further consideration of paragraph 143 is postponed.

Paragraph 144 is again postponed.

Paragraph 145 is again read.

It is moved by the Lord Rankeillour. Page 71, line 1, after ("Paper,") to insert ("except that we think that the salaries and "pensions of the Judges, in accordance with English precedent, should "not be open to discussion").

The amendment, by leave of the Committee, is withdrawn.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 71, line 8, at the end to insert ("In one respect, however, we think the list is "defective. The administration of Excluded Areas is a matter which "will be the exclusive responsibility of the Governor and, following "the analogy of the Governor-General's reserved departments, we think "that the expenditure required for these areas, whether derived from "provincial or central revenues, should not be subject to the vote of the "provincial Legislature.")

The same is agreed to.

Paragraph 145 is again read, as amended.

The further consideration of paragraph 145 is postponed.

Paragraph 146 is again postponed.

Paragraph 147 is again read.

It is moved by Lord Rankeillour on behalf of the Marquess of Salisbury. Page 71, line 35, after ("that") to insert ("both in respect "to Financial Powers and generally").

The same is agreed to.

Paragraph 147 is again read, as amended.

The further consideration of paragraph 147 is postponed.

Appendix I is again read.

It is moved by Mr. Cocks, Mr. Attlee, Mr. Morgan Jones, and the Lord Snell. Page 73, line 5, in the first column after ("discretion") to insert ("in the proportion of 50 per cent. women and 50 per cent. "representatives of Labour").

The same is disagreed to.

It is moved by Mr. Cocks, Mr. Attlee, Mr. Morgan Jones, and the Lord Snell.

Page 73, line 20, to leave out ("combined with") and to insert ("or").

The same is agreed to.

Appendix I is again read as amended.

The further consideration of Appendix I is postponed.

Paragraphs 148 to 150 are again postponed.

Paragraph 150A is read, as amended, and is as follows:

Accession of States to Federation a voluntary act.

"150A. The rights, authority and jurisdiction which will thus be
"conferred by the Crown on the new Central Government will not
"extend to any Indian State. It follows that the accession of an
"Indian State to the Federation cannot take place otherwise
"than by the voluntary act of its Ruler. The Constitution Act
"cannot itself make any Indian State a member of the Federation;
"it will only prescribe a method whereby the State may accede
"and the legal consequences which will flow from the accession.
"There can be no question of compulsion so far as the States
"are concerned Their Rulers can enter or stand aside from the
"Federation as they think fit. They have announced their willing-
"ness to consider federation with the Provinces of British India
"on certain terms: but whereas the powers of the new Central
"Government in relation to the Provinces will cover a wide field
"and will be identical in the case of each Province, the Princes have
"intimated that they are not prepared to agree to the exercise by
"a Federal Government for the purpose of the Federation of a 17
"similar range of powers in relation to themselves."

It is moved by the Marquess of Linlithgow. Line 17, to leave out ("a similar") and to insert ("an identical").

The same is agreed to.

Paragraph 150A is again read, as amended.

The further consideration of paragraph 150A is postponed.

Paragraphs 152 to 154 are again postponed.

Paragraph 155 is again read.

It is moved by the Marquess of Zetland. Page 78, lines 42 to 45, to leave out from ("capacity") in line 42 to the end of line 45 and to insert ("this suggestion").

The same is agreed to.

Paragraph 155 is again read, as amended.

The further consideration of paragraph 155 is postponed.

Paragraphs 156 to 158 are again postponed.

Paragraph 159 is again read.

It is moved by the Lord Middleton. Page 80, line 1, to leave out ("public").

The same is agreed to.

It is moved by Sir John Wardlaw-Milne. Page 80, lines 32 and 33, to leave out ("not merely").

The amendment, by leave of the Committee, is withdrawn.

It is moved by Sir John Wardlaw-Milne. Page 80, lines 33 to 35, to leave out from ("contribution") in line 33 to ("to") in line 35.

The amendment, by leave of the Committee, is withdrawn.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 80, line 37, to leave out ("leave nothing undone") and to insert ("do their utmost").

The same is agreed to.

It is moved by Sir Samuel Hoare and Mr Butler Page 80, line 39, to leave out ("quite inevitable") and to insert ("absolutely "necessary").

The same is agreed to

Paragraph 159 is again read, as amended.

The further consideration of paragraph 159 is postponed.

Paragraph 160 is again read

It is moved by Sir Samuel Hoare and Mr. Butler. Page 81, line 7, after the first ("the") to insert ("main')

The same is agreed to

Paragraph 160 is again read, as amended.

The further consideration of paragraph 160 is postponed.

Paragraph 161 is again read

It is moved by Sir Reginald Craddock Page 81, line 39, after ("are") to insert ("almost")

The same is agreed to.

Paragraph 161 is again read, as amended.

The further consideration of paragraph 161 is postponed.

Paragraphs 162 to 166 are again postponed.

Paragraph 167 is again read

It is moved by Mr Butler on behalf of the Viscount Halifax. Page 85, lines 18 and 19, to leave out from ("the") in line 18 to the end of the paragraph and to insert ("necessity arising for the exercise by "the Governor-General of his special power in the financial field.")

The same is agreed to

Paragraph 167 is again read, as amended.

The further consideration of paragraph 167 is postponed.

Paragraph 168 is again postponed.

Paragraph 170 is again read.

It is moved by the Lord Middleton. Page 86, line 23, to leave out ("assume") and to insert ("think").

The same is agreed to.

It is moved by the Lord Middleton. Page 86, line 24, to leave out ("will") and to insert ("should").

The same is agreed to.

Paragraph 170 is again read, as amended.

The further consideration of paragraph 170 is postponed.

Paragraphs 171 and 172 are again postponed.

Paragraph 173 is again read.

It is moved by the Lord Rankeillour. Page 88, line 1, after ("reserved.") to insert ("It might even conceivably be necessary for him "to take into his own hands or to direct the Governor to assume in his "discretion any department of the Provincial Government.")

The amendment, by leave of the Committee, is withdrawn.

It is moved by Sir Reginald Craddock. Page 88, line 10, after ("areas.") to insert ("There may also be cases in which at the time of "an emergency not connected with any Constitutional crisis it may be "necessary for the Federal Government or the Governor-General to "issue instructions to a Provincial Government in connection with the "co-operation of the police, such as arose at the outbreak of the War, "especially in connection with the guarding of railways and bridges "or the influx of returning revolutionaries from abroad.")

The amendment, by leave of the Committee, is withdrawn.

It is moved by the Lord Eustace Percy. Page 88, line 10, after ("areas,") to insert ("or, in times of emergency, with regard to the "guarding of railways and bridges and the like. In frontier areas, "and especially in the North-West Frontier Province special measures "may have to be taken in certain circumstances to control the move-"ment of persons or goods.")

The same is agreed to.

Paragraph 173 is again read, as amended.

The further consideration of paragraph 173 is postponed.

Paragraph 174 is read, as amended, and is as follows:—

Co-operation essential.

"174. It may be assumed that in practice the willing co-operation of the other departments of Government will render unnecessary any recourse to these special powers; and we should view with dismay the prospects of any new Constitution, if the relations between the ministerial and the reserved Departments were conducted in an atmosphere of jealousy or antagonism. The influence of the Governor-General will no doubt always be exerted to secure 6
co-ordination and harmony: but it may well be that some perma- 7
nent co-ordinating machinery will be desirable. The British-India Joint Memorandum suggests a statutory Committee of Indian Defence constituted on the lines of the Committee of Imperial Defence; but we are not sure that its authors fully appreciate the position and functions of the latter, since it is not a statutory body and its value is perhaps increased by the elasticity of its constitution. We are disposed to think that a body with statutory powers and duties might embarrass the Governor-General and even be tempted to encroach upon his functions. An advisory body, similar to the Committee of Imperial Defence, constituted at the Governor-General's discretion would not be open to that criticism and might, we think, have many advantages. It has been urged upon us that, in order to build up an informed opinion upon Defence questions, a statutory Committee of the Legislature should be established. We understand that, outside the formal opportunities of discussing Defence questions on such occasions as the Defence Budget, opportunities are already given to members of the Legislature to inform themselves upon Army questions; and, provided that the extent and methods of consultation are clearly understood to rest in the discretion of the Governor-General we see no objection to the formation of any Committee or Committees that the Federal Government and Legislature may consider useful. We feel, however, that this is essentially a question to be settled by the Legislature and not by the Constitution Act." 29

It is moved by the Lord Eustace Percy Line 6, after ("antagonism") to insert ("But, though")

The same is agreed to

It is moved by the Lord Eustace Percy Line 7, to leave out ("but")

The same is agreed to

It is moved by the Lord Eustace Percy Line 29, to leave out ("the Legislature") and to insert ("them")

The same is agreed to

Paragraph 174 is again read as amended

The further consideration of paragraph 174 is postponed

Paragraph 175 is again postponed

Paragraph 175A read, is amended and is as follows

Employment of Indian troops outside India.

175A In illustration of the principle that the Governor-General should invite the collaboration of the Federal Ministry to the widest extent compatible with the preservation of his own responsibility we would refer to the question of lending Indian personnel of the Defence Force for service outside India. There have been many occasions on which the Government of India has found themselves able to spare contingents for operations overseas in which considerations of Indian defence have not been involved, and we may presume that such occasions will recur. There appears to be some misconception in India on this point which it would be desirable to remove. It is not true that because a Government can in particular circumstances afford to spare a portion of the Indian [illegible] forces the size of those forces is thereby proved to be excessive, or conversely that if it is not excessive troops [illegible] spare for service elsewhere. These [illegible] against perils which may not always be [illegible] but which nevertheless must be provided for. There is thus no ground for any [illegible] *prima facie* objection to the loan of contingents on particular occasions. If on such occasions the Governor-General is asked whether he can lend a contingent he must decide first whether the occasion involves the defence of India in the widest sense, and secondly whether he can spare the troops having regard to all the circumstances at the time. Both these decisions would fall within the exclusive sphere of his responsibility. If he decided that troops could be spared the only [illegible] would be [illegible] down to one broad principle, namely, that Indian leaders as represented in the Federal Ministry should be consulted before their fellow countrymen were exposed to the risks of operations in a cause that was not their own. In view, however, of the complexities that may arise we do not feel able to recommend that the ultimate authority of the Governor-General should be limited in this matter. Our proposal is that when the question arises of lending Indian personnel of the Defence Force for service outside India on occasions which in the Governor-General's decision do not involve the defence of India in the broadest sense he should not agree to lend such personnel without consultation with the Federal Ministry. We have little doubt that in practice he will give the greatest weight to the advice of the Federal Ministry before reaching his final decision. The financial aspect has also to be considered. Although in the circumstances we are discussing the defence of India would not be involved it might on occasions be in India's general interests to make a contribution towards the cost of external operations. A proposal in the White Paper[1] reproduces the provision of s. 20 (1) of the Government of India Act that "the revenues of India shall be applied for the purposes

of the government of India alone", and a contribution in the general interests of India would come within the scope of that provision Under the new Constitution, however, the recognition of interests of this nature would fall within the province of the Federal Ministry and Legislature, since *ex hypothesi*, they would not be defence interests If therefore the question should arise of offering a contribution from India's revenues in the circumstances we are discussing (and the interests in question did not fall under the other reserved department of External Affairs) we are of opinion that it would need to be ratified by the Federal Legislature"

It is moved by Mr Morgan Jones, Mr Attlee Mr Cocks, and the Lord Snell Lines 27 to 30, to leave out from ("own") in line 27, to ("Our") in line 30 and to insert ("We think that this should "be done and we have little doubt that in practice the Governor-"General will give the greatest weight to the advice of the Ministry "before taking his final decision")

Objected to

On Question —

Contents (5)	Not Content (20)
Lord Snell	Lord Archbishop of Canterbury
Mr Attlee	Marquess of Zetland
Mr Cocks	Marquess of Linlithgow
Mr Foot	Earl of Derby
Mr Morgan Jones	Earl of Lytton
	Earl Peel
	Lord Middleton
	Lord Hardinge of Penshurst
	Lord Rankeillour
	Lord Hutchison of Montrose
	Mr Butler
	Major Cadogan
	Sir Austen Chamberlain
	Sir Reginald Craddock
	Mr Davidson
	Sir Samuel Hoare
	Sir Joseph Nall
	Lord Eustace Percy
	Sir John Wardlaw-Milne
	Earl Winterton

The said amendment is disagreed to

It is moved by Mr Morgan Jones Mr Attlee Mr Cocks and the Lord Snell Line 30, to leave out ("Our proposal is that") and to insert ("Further")

The same is disagreed to

It is moved by Mr Morgan Jones Mr Attlee Mr Cocks and the Lord Snell Line 31 to leave out ("consultation with") and to insert ("the consent of")

The same is disagreed to

It is moved by the Lord Rankeillour Line 3[illegible] after ("Ministry") to insert ("except in case of extreme emergency where such con-"sultation is impossible")

The same is disagreed to

Paragraph 175A is again read

The further consideration of paragraph 175A is postponed

Paragraphs 176 to 180 are again postponed.

Paragraph 181 is again read.

It is moved by Sir Samuel Hoare and Mr. Butler Page 91, line 15, after ("countries") to insert ("or the frontier tracts of India").

The same is agreed to.

Paragraph 181 is again read, as amended

The further consideration of paragraph 181, is postponed.

Paragraph 182 is again postponed

Paragraph 183 is again read.

It is moved by Mr Butler on behalf of the Viscount Halifax Page 92, line 19, to leave out ("is") and to insert ("has for some time been").

The same is agreed to

Paragraph 183 is again read, as amended

The further consideration of paragraph 183 is postponed

Paragraph 184 is again postponed

Paragraph 185 is again read

It is moved by the Marquess of Zetland Page 94, line 23, to leave out ("administration") and to insert ("administrative")

The same is agreed to

Paragraph 185 is again read, as amended

The further consideration of paragraph 185 is postponed

Paragraphs 186 to 189 are again postponed

It is moved by Mr Attlee, Mr Cocks, Mr Morgan Jones, and the Lord Snell Page 96, after paragraph 189, to insert the following new paragraphs

("190 In fact we go further and we suggest that any attempt to create at the Centre an exact reproduction of the machinery which functions at Westminster would be doomed to failure In this country the system of responsible government depends on stable divisions on Party lines and generally speaking functions most satisfactorily when there are only two main Parties These parties are not the creation of groups formed by members of the legislature subsequent to their election, but represent real divisions of opinion which extend back to the constituencies In the Federal legislature, which we are now discussing, apart from the communal cleavages which already make the working of the Westminster system difficult in many provinces, there will be two distinct categories of members, the elected representatives from British India and the nominees of the Rulers of States It seems difficult, therefore, to envisage the emergence of Parties on lines familiar to this country Two further obstacles present themselves The first is that, owing to the nature of the Federation, the members of the legislature, will not be equally concerned in its territory, and that the jurisdiction of the Federation will not extend as to all subjects equally over that territory. The second is that the subject-matter of Central administration and legislation provides a

somewhat slender basis for a full parliamentary system. Ninety per cent of everything that concerns the ordinary citizen will come within the ambit of Provincial administration. For these reasons we believe that responsibility at the Centre will be developed on lines very different from those at Westminster. It is not perhaps always realised in India that the British Cabinet is in fact the master of the legislature. This is a result of the Party system, for the Cabinet, although formally chosen by the Crown, is in fact composed of the leading members of the Party in a majority. It maintains its control [illegible] through the discipline of the Party machine backed by the power of Dissolution. [illegible] do not think that this power of the Ministry to control the Legislature will be reproduced at Delhi; indeed we think it probable that the Ministry will be [illegible] the [illegible] and the [illegible] Legislature will have to take full [illegible] responsibility [illegible] do not think that the practice whereby a ministry [illegible] dependent from day to day on the Vote of the Legislature will be workable in India. We therefore [illegible] certain proposals for giving what is essential, greater stability to the administration.

191. The Federal Executive [illegible] of the Governor-General, the Councillor in charge of Defence and Ministers, the number of whom we think it [illegible] to specify. We consider that when the Legislature [illegible] constituted, the Governor-General [illegible] will [illegible] members in order to find out what combination of persons would be likely to command the confidence of the [illegible] submit this Ministry [illegible] Defence [illegible] Ministry to the Legislature [illegible] Vote of Confidence. If this vote [illegible] carried the Ministry would remain in office [illegible] a definite term during which period it could only be removed [illegible] a definite Vote of No Confidence carried by a two-thirds majority. As already stated the position of the Ministry will be something like that of the Swiss Executive [illegible] responsibility will not be explicitly laid down [illegible] constitutions, but the actions of the Government would be the actions of all its members [illegible] although the Ministry would be composed of heterogeneous elements it would be subjected to those powerful influences which tend to create solidarity in any body of persons holding positions of responsibility. We think that in the early stages of the working of the new Constitution the Governor-General will preside at meetings of his Cabinet and that only as time goes on will this practice fall into desuetude. There should however be a First Minister who will preside in the absence of the Governor-General and lead in the Legislature. He should hold a portfolio without too heavy an administrative content. For the working of the legislative machine we suggest the setting up of a number of standing committees, one of which, Defence, Finance, Foreign Affairs should be statutory. These committees should correspond with the functions of the Central Government. They would meet from time to time during the Session. The Minister should preside, while in the case of the Committee of Defence the official Member would do so. We conceive of these committees working somewhat on the lines of those of municipal bodies or in the Ceylon Constitution. The object should be to bring the members of the Legislature into real contact with administration. We think that the Committee stage of a Bill should wherever possible be remitted to the standing committee dealing with the particular function of government concerned. We think that in this way, through a developed committee system, much of the difficulty which has been brought to our notice of State Members voting on purely British India questions would be avoided, as it would be natural to remit Bills dealing solely with British India to committees of members drawn only from British India. The Defence Committee would have less power of control than would be possessed by the other committees but in spite of this would we think form a valuable

field of experience for members. We consider that at all these committees it should be the usual practice for officials to be present, not for influencing policy, but for providing information. In our view, owing to the subject matter which would be dealt with at the Centre and to the position of the Federation, it is unlikely that governments will be formed with definite legislative programmes, as in this country. We think that much legislation will come forward in the way of private members' Bills. We have made this general sketch of the way in which we might expect responsibility to be exercised at the Centre, because it is important to realize that the British system is not the only possible system and that it itself is susceptible of reform in some directions. It is a question as to what provisions can be included in the Constitution Act itself. We would prefer to leave the development of the Constitution at the Centre to the elected Members to work out the forms and methods which seem appropriate. We attach importance, however, to the provision which will give to the Ministry some degree of stability, for we have seen in many countries where there has been no stable Party system in the Legislature, but only a number of groups, the danger and weakness entailed by constant changes of Ministry, and we should desire that at the Centre from the start it should not be assumed that because the Legislature takes a different view from the Ministry on a particular point, that therefore the Ministry should resign. It is for this reason that we have suggested that changes of Ministry should only take place as the result of a direct Vote of No Confidence carried by a two-third majority.")

The same is agreed to.

Paragraph 194 is read, as amended, and is as follows:

"No other part of the subject of our enquiry which has seemed to us to present greater difficulties than the question of the method of election to a Central Legislature for India. It is one on which there has always been a marked difference of opinion, and we recall that the Joint Select Committee which considered the Government of India Bill in 1919 did not accept the recommendation of the Southborough Committee which had been embodied in the Bill, and that there is a similar divergence between the recommendation of the Statutory Commission and the proposal in the White Paper. It should be recognized that
11 to attempt to provide a legislative body which shall be representative of a population of over 300 millions is without precedent. We are met at the outset by the difficulty of applying the representative system on a basis of direct representation to an electorate of such magnitude. On the one hand, if the constituencies were of a reasonable size, the resulting Chamber would be unmanageably large; if, on the other hand, the Chamber were of a reasonable size, the constituencies on which it was based would necessarily be enormous. In these circumstances our task has been an anxious one, and we have only arrived at our conclusions after a careful and prolonged examination of the matter in all its aspects."

Difficulty of the subject.

It is moved by the Marquess of Linlithgow, Line 11, to leave out ("over") and to insert ("nearly").

The same is agreed to.

Paragraph 194 is again read, as amended.

The further consideration of paragraph 194 is postponed.

Paragraph 195 is again read.

It is moved by the Marquess of Linlithgow, Page 98, line 37, to leave out ("is to") and to insert ("would"), line 39, to leave out ("will") and to insert ("would"). Page 98, line 40, to leave out ("will") and to insert ("would"), line 42, to leave out ("will") and to

insert ("would"); line 44, to leave out ("provided") and to insert ("proposed"); line 45, to leave out ("shall") and to insert ("should"); line 46, to leave out ("will") and to insert ("would"); page 99, line 1, to leave out ("will") in two places and to insert ("would").

The same are agreed to.

Paragraph 195 is again read, as amended.

The further consideration of paragraph 195 is postponed.

Paragraph 196 is again read.

It is moved by the Marquess of Linlithgow. Page 99, line 5, to leave out ("will") and to insert ("would"), line 9 to leave out ("will") and to insert ("would"); line 15, to leave out ("will") and to insert ("would"); line 16, to leave out ("will") and to insert ("would").

The same are agreed to.

Paragraph 196 is again read, as amended.

The further consideration of paragraph 196 is postponed.

Paragraph 197 is again read.

It is moved by the Marquess of Linlithgow. Page 99, line 20, to leave out ("will") and to insert ("would"), line 25, to leave out ("will") and to insert ("would"); line 27, to leave out ("will") and to insert ("would"); line 29, to leave out ("will") and to insert ("would"); line 31, to leave out ("will") and to insert ("would"); line 34, to leave out ("will") and to insert ("would"); line 36, to leave out ("will") and to insert ("would").

The same are agreed to.

Paragraph 197 is again read, as amended.

The further consideration of paragraph 197 is postponed.

Paragraph 198 is again postponed.

Paragraph 199 is read, as amended, and is as follows:

Direct or indirect election.

"199 Direct election has the support of Indian opinion and is strongly advocated by the British India Delegation in their Joint Memorandum. It has been the system in India for the last twelve years, and has worked on the whole reasonably well, though, it should be remembered, with a much more limited franchise than that now proposed. The Southborough Committee which visited India in 1919 for the purpose of settling the composition of, and the method of election to, the Legislatures set up by the Government of India Bill of that year, did, it is true, recommend the indirect system; but the Joint Select Committee which examined the Bill were of a contrary view, and Parliament accepted the opinion of the Committee. It may also be argued that, with the increase in the size of the Legislatures now proposed, it will be possible to effect so appreciable a reduction in the size of the existing constituencies as to diminish the objections based on that feature of the present system. But even the reduction in the size of constituencies which would follow from the White Paper proposals will still leave them unwieldy and unmanageable, unless the number of seats is increased beyond all reasonable limits. Where a single constituency may be greater in extent than the whole of Wales, a candidate for election could not in any event commend or even present his views to the whole body of electors, even if the means of communication were not, as in India, difficult and often non-existent, and quite apart from obstacles presented by differences in language and a widespread illiteracy; nor could a member after election hope to guide or inform opinion in his constituency.

These difficulties would be serious enough with the comparatively limited franchise proposed in the White Paper; but future extensions of that franchise would be inevitable, and it is obvious that with every increase in the electorate these difficulties are enhanced. Indeed, any considerable extension of the franchise under a system of direct election would cause an inevitable breakdown. We do not believe that constituencies both of large size and containing an electorate of between 200,000 and 300,000 people
34 can be made the basis of a healthy parliamentary system. We think that Parliament and Indian public opinion should face these facts and should recognise that direct election, apart from its immediate merits or demerits at the present time, cannot provide a sound basis for Indian constitutional development in the future. We cannot believe that it would be wise to commit India at the outset of her constitutional development to a line
39 which must prove to be blind alley."

It is moved by Mr. Cocks, Mr. Morgan Jones, and the Lord Snell: Lines 15 to 39, to leave out from ("system") in line 15 to the end of the paragraph and to insert ("Bearing in mind the "strength of Indian opinion in this matter we have come to the "conclusion, notwithstanding the objections which can be urged "against it, that there is no alternative to the adoption of a "system of direct election").

The amendment by leave of the Committee is withdrawn.

It is moved by the Marquess of Zetland: Line 19, to leave out ("greater in extent than") and to insert ("more than twice as large in area as").

The same is agreed to.

It is moved by the Lord Middleton: Line 34, to leave out ("a blind").

The same is agreed to.

Paragraph 199 is again read, as amended.

The further consideration of paragraph 199 is postponed.

Paragraphs 200 and 201 are again postponed.

Paragraph 202 is again read.

It is moved by the Lord Rankeillour: Page 101, line 15, after ("by") to insert ("past and present members of").

The amendment by leave of the Committee is withdrawn.

It is moved by the Lord Eustace Percy: Page 101, lines 15 to 18, to leave out from ("bodies,") in line 15 to the end of the sentence and to insert ("but the general tenor of the evidence before us indicates "that Indian opinion is strongly opposed to this system largely owing "to its association with the procedure under the Morley-Minto Con "stitution which does not seem to have worked well, and we cannot "recommend it in present circumstances").

The same is agreed to.

It is moved by Sir Reginald Craddock: Page 101, line 40, to leave out ("and") and after ("Europeans") to insert ("and Anglo-"Indians").

The same is agreed to.

Paragraph 202 is again read, as amended.

The further consideration of paragraph 202 is postponed.

Paragraph 202A is read, as amended, and is as follows:—

"202A. We feel strongly, however, that it is not possible for Parliament to lay down to-day the exact method of constituting the Central Legislature for any long period of time. The question
4 has been repeatedly examined, before the passage of the present Government of India Act, by the Statutory Commission, and by

Indirect election to be regarded in the nature of an experiment.

the Round Table Conferences and the Indian Franchise Committee in connection with the present proposals for reform Throughout this whole period opinions have been deeply divided and no clear-cut solution has emerged, as indeed was to be expected when an attempt is being made to create a Federation on a scale and of a character hitherto without precedent We have chosen the system of indirect election by the Provincial Legislatures, not because we do not feel the force of the arguments which can be brought against it, but because we think that it is the arrangement which will give the most practical system at the outset of the Federation Moreover while it will be possible in future to pass from the indirect to the direct system of election should experience show that step to be advisable, the maintenance and still more the extension of the system of direct election today would be to commit India to a system which logically leads to adult suffrage before any way has been discovered of overcoming the insuperable objection to the gigantic constituencies containing hundreds of thousands of voters which are inevitable with adult franchise in India under the ordinary system of direct election We feel that the ultimate solution may well be found in some variant either of the system whereby groups of primary voters elect secondary electors who vote directly for members of the federal assembly or of the system whereby those already elected to local bodies such as village panchayats are the voters who vote directly for members of that assembly Systems of this kind apparently work with considerable success in many countries where conditions are not dissimilar to those in India But the discovery of the best method of adapting those ideas to Indian needs and of removing the obstacles which now stand in the way of their adoption is clearly one which should be made by Indians themselves in the light of their experience of the practical working of representative institutions under the new Constitution We consider therefore that our proposals should be regarded as being in the nature of an experiment and that further consideration should be given to the question of the method of composing the Central Legislature in the light of practical working of the Constitution We do not propose that there should be any formal examination of the problem by a Statutory Commission after any specific date for we think that experience has shown that there are strong objections to automatic provisions of this kind But we consider that Parliament should recognize that after sufficient time has elapsed to enable clear judgment to be formed of the way in which the Constitution works and of the new political forces it has brought into being it may be necessary to make amendment in the method of composing the Central Legislature and we hope that if Indian opinion thinks modification is required the Federal Legislature will lay its own proposal before Parliament in the form recommended elsewhere in this report"

It is moved by the Marquess of Zetland Line 4 after ("examined") to insert ("both")

The same is agreed to

It is moved by the Marquess of Zetland Line 4 after ("Act") to insert ("and subsequently") and to leave out the second ("by")

The same is agreed to

It is moved by the Lord Hardinge of Penshurst Line 35 to leave out ("in the nature of an experiment") and to insert ("open to future "review ")

The same is agreed to

Paragraph 202A is again read as amended

The further consideration of paragraph 202A is postponed

Paragraph 203 is again postponed

Paragraph 204 is again read

It is moved by the Marquess of Zetland Page 102, lines 26 and 27, after ("year") in line 26, to insert a full stop and to leave out the brackets in lines 26 and 27

The same is agreed to

Paragraph 204 is again read, as amended

The further consideration of paragraph 204 is postponed

Paragraphs 205 to 206 are again postponed

Paragraph 207 is again read

It is moved by Sir Samuel Hoare and Mr Butler Page 103, line 44, to leave out ("nearly six hundred States") and to insert ("over 600 "States, Estates and Jagirs which constitute the non British portion of "India")

The same is agreed to

It is moved by Sir Samuel Hoare and Mr Butler Page 104, line 14, to leave out ("by") and to insert ("within")

The same is agreed to

Paragraph 207 is again read, as amended

The further consideration of paragraph 207 is postponed

Paragraph 208 is again postponed

Paragraph 209 is again read

It is moved by the Marquess of Linlithgow Page 104, line 45, to leave out ("by") and to insert ("on")

The same is agreed to

Paragraph 209 is again read as amended.

The further consideration of paragraph 209 is postponed

Paragraphs 210 to 213 are again postponed

Paragraph 214 is again read

It is moved by the Lord Rankeillour Page 106, line 30, to leave out ("a") and to insert ("any Bill, clause or")

The same is agreed to

Paragraph 214 is again read, as amended

The further consideration of paragraph 214 is postponed

Paragraph 215 is again postponed

Paragraph 216 is read, as amended, and is as follows

"216 The question was much discussed before us whether any special provision ought to be included in the Constitution Act prohibiting States' representatives from voting on matters of exclusively British India concern The British India Delegation in their Joint Memorandum urge that this should be done, and their suggestions are briefly as follows (1) that in a division on a matter concerning solely a British India subject, the States' representatives should not be entitled to vote, (2) that the question whether a matter relates solely to a British India subject or not should be left to the decision of the Speaker of the House, which should be final, but (3) that if a substantive vote of no confidence is proposed on a matter relating solely to a British India subject the States' representatives should be entitled to vote, since the decision might vitally affect the position of a Ministry formed on a basis of collective responsibility, (4) that if the Ministry is defeated on a subject of exclusively British India interest, it should not necessarily resign" We do not think that these suggestions would in any way meet the case Circumstances may make any vote of a Legislature, even on a matter intrinsically unimportant, States' representatives and British India legislation.

an unmistakable vote of no confidence; the distinction between
formal votes of no confidence and other votes is an artificial and
conventional one, and it would be impossible to base any statutory
enactment upon it. On the other hand, the States have made it
clear that they have no desire to interfere in matters of exclusively
British-India concern, nor could we suppose that it would be in
their interests to do so; but they are anxious, for reasons which
we appreciate that their representatives should not be prevented
by any rigid statutory provisions from exercising their own judg-
ment, from supporting a Ministry with whose general policy they
are fully in agreement, or from withholding their support from a
Ministry whose policy they disapprove. In these circumstances
we think that the true solution is that there should be no 30
such prohibition but that the matter should be regulated by the
common sense of both sides and by the growth of constitutional
practice and usage, and indeed we have no doubt that both parties 32
will find it in their mutual interest to come to some suitable work-
ing arrangement at an early stage. We have, however, one sugges- 34
tion to make which we think may be worth consideration. Under
the Standing Orders of the House of Commons all Bills which
relate exclusively to Scotland and have been committed to a
Standing Committee are referred to a Committee consisting of all
the members representing the Scottish constituencies, together with
not less than ten nor more than fifteen other members. We think
that a provision on these lines might very possibly be found useful,
and that the Constitution Act might require that any Bill on a
subject included in List III should, if extending only to British
India, be referred to a Committee consisting either of all the
British India representatives or a specified number of them, to
whom two or three States' representatives could, if it should be
thought desirable, be added."

The Marquess of Linlithgow. Line 30, to leave out ("such") and to insert ("statutory").

The same is agreed to.

It is moved by the Lord Eustace Percy on behalf of the Marquess of Salisbury. Lines 32 to 34, to leave out from ("usage") in line 32 to the end of the sentence.

The same is agreed to.

Paragraph 216 is again read, as amended.

The further consideration of paragraph 216 is postponed.

Paragraph 217 is read, as amended, and is as follows:

Administrative nexus between the Federation and its constituent units.

"217. The transformation of British India from a unitary into a
Federal State necessitates a complete readjustment of the relations
between the Federal and Provincial Governments. The Provincial
Governments are at the present time subordinate to the Central
Government and under a statutory obligation to obey its orders
and directions though the Central Government, and indeed, the
Secretary of State himself, is bound by statutory rules not to
interfere with the provincial administration save for certain
limited purposes in matters which under the devolution rules now
fall within the transferred provincial sphere. But now that the
respective spheres of the Centre and of the Provinces will in future
be strictly delimited and the jurisdiction of each (except in the
concurrent field which we have described elsewhere) will exclude
the jurisdiction of the other, a nexus of a new kind must be
established between the Federation and it constituent units. We
are impressed by the possible dangers of a too strict adherence to
the principles of what is known as Provincial Autonomy. The 15
Statutory Commission in their recommendations for Provincial 16
Autonomy were, we think, not unaffected by the desire to
give the largest possible ambit to autonomy in the pro-
vincial sphere, owing to their inability at that time to recommend

responsibility at the Centre. The larger measure of Indian self-government which has obtained in the Provinces during the past twelve years has also, we think, tended to develop and perhaps overdevelop a desire for complete freedom of control from the Centre. We have discussed elsewhere in our Report both the legislative and the financial nexus which the White Paper proposes to create; and we confine our observations here to the administrative relations between the Federal Government as such on the one hand and the Provincial Governments and the Rulers or Governments of the Indian States on the other."

It is moved by the Marquess of Linlithgow. Lines 15 and 16, to leave out ("adherence to the principles of what is known as") and to insert ("interpretation of the principle of").

The same is agreed to.

Paragraph 217 is again read, as amended.

The further consideration of paragraph 217 is postponed.

Paragraph 218 is again read.

It is moved by the Marquess of Linlithgow. Page 108, line 45, to leave out ("any") and to leave out ("limitations") and to insert ("reservations").

The same is agreed to.

Paragraph 218 is again read, as amended.

The further consideration of paragraph 218 is postponed.

Paragraph 219 is read as amended and is as follows:—

Distinction between legislation in the exclusive and concurrent fields.

"219. We are of opinion that the proposals in the White Paper on this subject require modification in two directions. In the first place, the White Paper draws no distinction between the execution of Federal Acts with respect to subjects on which the Federal Legislature is alone competent to legislate (List I) and the execution of Federal Acts in the concurrent field (List III). It is evident that in its exclusive field the Federal Government ought to have power to give directions—detailed and specific if need be—to a Provincial Government as proposed in the White
9 Paper. But it is much more doubtful whether it should have such power in the concurrent field. The objects of legislation in this field will be predominantly matters of provincial concern, and the agency by which such legislation will be administered will be almost exclusively a provincial agency. The Federal Legislature will be generally used as an instrument of legislation in this field merely from considerations of practical convenience and, if this procedure were to carry with it automatically an extension of the scope of federal administration, the Provinces might feel that they were exposed to dangerous encroachment. On the other hand, the considerations of practical convenience which would prompt the use of the Federal Legislature in this field will often be the need for securing uniformity in matters of social legislation, and uniformity of legislation will be useless if there is no means of enforcing reasonable uniformity of administration. We think the solution is to be found in drawing a distinction between subjects in the Concurrent List which on the one hand relate, broadly speaking, to matters of social and economic legislation, and those which on the other hand relate mainly to matters of law and order, and personal rights and status. The latter from the larger class, and the enforcement of legislation on these subjects would, for the most part, be in the hands of the Courts or of the provincial authorities responsible for public prosecutions. There can clearly be no question of Federal directions being issued to the Courts,

nor could such directions properly be issued to prosecuting authorities in the Provinces. In these matters, therefore, we think that the Federal Government should have in law, as they could have in practice, no powers of administrative control. The other class of concurrent subjects cons--- mainly of the regulation of mines, factories, employers' liabili-y and workmen's compensation, trade unions, welfare of labour, industrial disputes, infectious diseases, electricity, and cinematograph films. In respect of this class, we think that the Federal Government should, where necessary, have the power to issue general directions for the enforcement of the law, but only to the extent provided by the Federal Act in ques- 39
think that the Federal Government should, where necessary, have the Federal Legislature, it is improbable that a body so representative of provincial opinion will sanction any unreasonable encroachment upon the provincial field of action; but, as a further safeguard against such encroachment, we think that any clause in a statute conferring such powers should require the previous sanction of the Governor-General."

It is moved by the Marquess of Linlithgow. Line 9, after ("Paper") to insert ("The same principle should apply to matters "in which action or inaction by a provincial Government within "its own exclusive sphere affects the administration of an exclu- "sively Federal Subject that is to say, it should be open to the "Federal Government to give directions to a provincial Govern- "ment which is so carrying on the administration of a Provincial "Subject as to affect prejudicially the efficiency of a Federal "Subject.")

The same is agreed to.

It is moved by the Lord Rankeillour on behalf of the Marquess of Salisbury Line 39, to leave out ("general").

The same is agreed to.

Paragraph 219 is again read, as amended.

The further consideration of paragraph 219 is postponed.

Paragraph 220 is again postponed.

Paragraph 221 is again read.

The following amendments are laid before the Committee and are as follows:-

The Lord Eustace Percy to move Page 110, lines 32 to 40, to leave out from the beginning of the paragraph to ("A") in line 40.

The Marquess of Salisbury to move Page 110, line 37, after ("legislate") to insert ("and of social and economic legislation in "the Concurrent List")

The consideration of the said amendments is postponed.

It is moved by the Marquess of Linlithgow. Page 110, to leave out paragraph 221.

The same is agreed to

Paragraph 222 is again postponed.

Paragraph 223 is read, as amended, and is as follows:—

Inter-provincial relations.

"223. We do not observe any proposals in the White Paper dealing with disputes or differences between one Province and another, other than disputes involving legal issues, for the determination of which the Federal Court is the obvious and necessary forum. Yet it cannot be supposed that inter-provincial disputes will never arise, and we have considered whether it would not be desirable to provide some

constitutional machinery for disposing of them. At the present time the Governor-General in Council has the power to decide questions arising between two Provinces in cases where the Provinces concerned fail to arrive at an agreement, in relation to both transferred and reserved subjects; but plainly it would be impossible to vest such a power in the Governor-General or Federal Ministry after the establishment of Provincial Autonomy, though we do not doubt that the good offices of both will always be available for the purpose. But after careful consideration we have come to the conclusion that it would be unwise to include in the new Constitution any permanent machinery for the settlement of disputes of the sort which we have in mind, and in our opinion the more prudent course will be to leave the Provinces free to develop such supplementary machinery as the future course of events may show to be desirable. There will be necessarily many subjects on which inter-provincial consultation will be necessary, as indeed has proved to be the case even at the present time; and we consider that every effort should be made to develop a system of inter-Provincial conferences, at which administrative problems common to adjacent areas as well as points of difference may be discussed and adjusted. Suggestions for a formal Inter-Provincial Council have been made to us, and we draw attention in later paragraphs of our Report[1] to a number of matters on which it is, in our view, important that the Provinces should co-ordinate their policy, in addition to the financial problem which we discuss hereafter.[2] It is obvious that, if departments or institutions of co-ordination and research are to be maintained at the Centre in such matters as agriculture, forestry, irrigation, education, and public health, and if such institutions are to be able to rely on appropriations of public funds sufficient to enable them to carry on their work, the joint interest of the Provincial Governments in them must be expressed in some regular and recognised machinery of inter-Governmental consultation. Moreover, we think that it will be of vital importance to establish some such machinery at the very outset of the working of the new constitution, since it is precisely at that moment that institutions of this kind may be in most danger of falling between two stools through failing to enlist the active interest either of the Federal or the Provincial Governments, both of whom will have many other more immediate pre-occupations. There is, however, much to be said for the view that, though some such machinery may be established at the outset, it cannot be expected to take its final form at that time, and that Indian opinion will be better able to form a con sidered judgment as to the final form which it should take after some experience in the working of the new constitution. For this reason we doubt whether it would be desirable to fix the constitution of an Inter Provincial Council by statutory provisions in the Constitution Act, but we feel strongly the desirability of taking definite action on the lines we have suggested as soon as the Provincial Autonomy provisions of the Constitution come into operation. We think further that, although the Constitution Act should not itself prescribe the machinery for this purpose, it should empower His Majesty's Govern-
54 ment to regulate the working of such co-ordinating machinery as it may have been found desirable to establish, in order that at the appropriate time means may thus be available for placing those matters upon a more formal basis"

It is moved by the Lord Eustace Percy, Line 54, to leave out ("regulate the working of") and to insert ("give sanction by "Order-in-Council to").

The same is agreed to.

Paragraph 223 is again read, as amended.

The further consideration of paragraph 223 is postponed.

Paragraphs 224 and 225 are again postponed

Paragraph 226 is again read

It is moved by Sir Samuel Hoare and Mr Butler Page 113, line 25, after ("Autonomy") to insert ("or with the principle that outside the "federal sphere the States' relations will be exclusively with the Crown").

The same is agreed to

Paragraph 226 is again read, as amended

The further consideration of paragraph 226 is postponed

Paragraph 227 is again postponed

Appendix (II) is again read

It is moved by Mr Cocks, Mr Attlee, Mr Morgan Jones, and the Lord Snell Page 114, line 6, after (members) to insert ("three of whom "must be women and three representatives of Labour")

Objected to

On Question –

Contents (6)	Not Contents (16)
Lord Archbishop of Canterbury	Marquess of Linlithgow
Lord Snell	Earl Peel
Mr Attlee	Lord Middleton
Mr Cocks	Lord Hardinge of Penshurst
Mr Foot	Lord Rankeillour
Mr Morgan Jones	Lord Hutchison of Montrose
	Mr Butler
	Major Cadogan
	Sir Austen Chamberlain
	Sir Reginald Craddock
	Mr Davidson
	Sir Samuel Hoare
	Sir Joseph Nall
	Lord Eustace Percy
	Sir John Wardlaw Milne
	Earl Winterton

The said amendment is disagreed to

It is moved by Mr Isaac Foot Page 116, line 19, to leave out ("women")

The same is agreed to

It is moved by Mr Cocks, Mr Attlee, Mr Morgan Jones, and the Lord Snell Page 116, line 20, after ("Paper"), to insert ("The number of "special seats assigned to Labour should be at least equal to the total "number assigned to Landholders Commerce and Industry")

Objected to

On Question --

Contents (4)	Not Contents (17)
Lord Snell	Lord Archbishop of Canterbury
Mr Attlee	Marquess of Linlithgow
Mr Cocks	Earl Peel
Mr Morgan Jones	Lord Middleton
	Lord Rankeillour
	Lord Hutchison of Montrose.

Contents (4)—*contd.*

Not Contents (17)—*contd.*

Mr. Butler.
Major Cadogan.
Sir Austen Chamberlain.
Sir Reginald Craddock.
Mr. Davidson.
Mr. Foot.
Sir Samuel Hoare.
Sir Joseph Nall.
Lord Eustace Percy.
Sir John Wardlaw-Milne.
Earl Winterton.

The said amendment is disagreed to.

It is moved by Mr. Isaac Foot. Page 117, line 5, after ("Anglo-"Indians"), to insert ("women").

The same is agreed to.

It is moved by Mr. Isaac Foot. Page 117, line 7, after ("Anglo-"Indian"), to insert ("women's").

The same is agreed to.

It is moved by Mr. Isaac Foot. Page 117, line 8, after ("Houses.") to insert ("In the case of the electoral college "composed of the "women members of the provincial Lower Houses, three seats shall "be reserved for Mohammedan women and one seat for an Indian "Christian woman.")

The same is agreed to.

Appendix (II) is again read, as amended.

The further consideration of Appendix (II) is postponed.

Appendix (III) is again read.

It is moved by Sir Samuel Hoare and Mr. Butler. In the entry in List I (b) relating to "Rajputana Agency (List II)," to leave out ("11,180,826") in the population column and to insert ("11,214,400").

The same is agreed to.

It is moved by Sir Samuel Hoare and Mr. Butler. In the "Lower House" column of List II against the entry "Banswara" to leave out ("225,106") and to insert ("258,670"), and in the following line to leave out ("452,650") and to insert ("486,214").

The same is agreed to.

It is moved by Sir Samuel Hoare and Mr. Butler. In the "Lower House" column of List X to leave out ("Central India States and "Rajputana States (Kushalgarh and Lawa) 319,089") and to insert ("Central India States and Lawa (Rajputana) 285,525").

The same is agreed to.

Appendix (III) is again read, as amended.

The further consideration of Appendix (III) is postponed.

Paragraphs 228 to 231 are postponed.

Paragraph 232 is again read.

It is moved by the Lord Eustace Percy. Page 131, lines 5 to 15, to leave out from ("India.") in line 5 to the end of line 15 and to insert ("We are therefore prepared to accept the proposal embodied "in the White Paper that the Governor-General, acting in his discre-"tion, should be empowered to").

The same is disagreed to.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 131, line 12, to leave out ("however").

The same is agreed to.

It is moved by the Marquess of Linlithgow and the Marquess of Zetland. Page 131, line 16, after ("allocate") to insert ("to").

The same is agreed to.

Paragraph 232 is again read, as amended.

The further consideration of paragraph 232 is postponed.

Paragraph 233 is again read.

It is moved by Mr. Butler on behalf of the Viscount Halifax. Page 131, line 46, to leave out ("explained elsewhere") and to insert ("already explained").

The same is agreed to.

It is moved by the Lord Eustace Percy Page 132, lines 21 to 23, to leave out from ("Commission") in line 21 to the end of line 23 and to insert ("and we think that").

The same is agreed to.

Paragraph 233 is again read, as amended.

The further consideration of paragraph 233 is postponed.

Paragraphs 234 to 238 are again postponed.

Ordered that the Committee be adjourned till to-morrow at Three o'clock.

Die Mercurii 10° Octobris 1934

Present

Marquess of Salisbury
Marquess of Zetland
Marquess of Linlithgow
Earl of Derby
Earl of Lytton
Earl Peel
Viscount Halifax
Lord Middleton
Lord Hardinge of Penshurst
Lord Snell
Lord Rankeillour
Lord Hutchison of Montrose

Mr Attlee
Mr Butler
Major Cadogan
Sir Austen Chamberlain
Mr Cocks
Sir Reginald Craddock
Mr Davidson
Mr Foot
Sir Samuel Hoare
Mr Morgan Jones
Sir Joseph Nall
Lord Eustace Percy
Sir John Wardlaw-Milne
Earl Winterton

The Marquess of Linlithgow in the Chair

The Order of Adjournment is read

The Proceedings of yesterday are read

It is moved by Mr Attlee, Mr Cocks Mr Morgan Jones and the Lord Snell After paragraph 238A to insert the following new paragraph

> "238B It is proposed in the White Paper that such subjects as Health Insurance and Invalid and Old Age Pensions should be subjects of Provincial Legislation We see serious objection to this and consider that they should be included in the Concurrent List While it is necessary that the more industrialized Provinces should be able to legislate on these subjects in the interests of the urban workers and should not have to wait for the concurrence of those which are predominantly rural, it is undesirable to exclude the possibility of All India legislation which may well become necessary in order that there should be uniformity of treatment of the workers as between Province and Province and that industry in one Province should not be burdened with obligations not imposed in another Mr N M Joshi, in the Memorandum submitted by him, argued that social insurance should also be included in the list of Federal subjects, but here, again, we consider it would be better that it should be in the concurrent list

Objected to

All amendments are to the Draft Report (*vide supra* paras 1–42B, pp 470–491, and paras 42—453, pp 64—258) and NOT to the Report as published (Vol I, Part I).

A Key is attached (see p. 637 *et seq*), showing on which pages of the Proceedings amendments to each paragraph can be found

On Question:—

Contents (14).	Not Contents (12).
Marquess of Salisbury.	Marquess of Linlithgow.
Marquess of Zetland.	Earl of Derby.
Lord Middleton.	Earl of Lytton.
Lord Hardinge of Penshurst	Earl Peel.
Lord Snell.	Viscount Halifax.
Lord Rankeillour.	Mr. Butler.
Lord Hutchison of Montrose	Major Cadogan.
Mr. Attlee.	Sir Austen Chamberlain.
Mr Cocks	Mr. Davidson.
Sir Reginald Craddock	Sir Samuel Hoare
Mr. Foot	Sir John Wardlaw Milne.
Mr Morgan Jones.	Earl Winterton.
Sir Joseph Nall.	
Lord Eustace Percy.	

The said amendment is agreed to

New paragraph 238B is again read

The further consideration of paragraph 238B is postponed.

Paragraphs 239 and 240 are again postponed

The Revised Lists are again considered.

Revised List (II) is again read

It is moved by Sir Reginald Craddock. Page 110, item 7 (7), to leave out ("Compulsory acquisition of land") and to insert ("Trans "ferred to List III").

The same is disagreed to

It is moved by Sir Austen Chamberlain Page 140, line 19, at the end, to insert ("not specified in List (I)")

The same is agreed to.

It is moved by Mr Cocks, Mr. Attlee, Mr. Morgan Jones, and the Lord Snell. Page 142, line 8, to leave out ("Prevention of cruelty to animals")

The same is agreed to

It is moved by Mr. Attlee, Mr Cocks, Mr. Morgan Jones, and the Lord Snell Page 142, to leave out line 36.

The same is agreed to

Revised List (II) is again read, as amended

The further consideration of Revised List (II) is postponed.

Revised List (III) is again read.

It is moved by Mr. Cocks, Mr. Attlee, Mr. Morgan Jones, and the Lord Snell. Page 144, after line 45, to insert ("Health insurance, and "invalid and old-age pensions").

The same is agreed to.

It is moved by Mr. Cocks, Mr. Attlee, Mr Morgan Jones, and the Lord Snell. Page 144, after line 45, to insert the following new item ("Prevention of cruelty to animals").

The same is agreed to.

Revised List (III) is again read, as amended.

The further consideration of Revised List (III) is postponed

Paragraphs 241 to 244 are again postponed

Paragraph 245 is again read.

It is moved by the Marquess of Linlithgow Page 147, line 15, after ("alike.") to insert ("but")

The same is agreed to

Paragraph 245 is again read, as amended

The further consideration of paragraph 245 is postponed

Paragraph 246 is again read

It is moved by the Marquess of Linlithgow Page 148, line 9, to leave out ("the") and to insert ("His Majesty's)

The same is agreed to

Paragraph 246 is again read, as amended

The further consideration of paragraph 246 is postponed

Paragraphs 247 to 249 are again postponed

Paragraph 250 is again read

It is moved by the Marquess of Linlithgow Page 150, lines 3 to 5, to leave out from ("be") in line 3 to (" (the") in line 5 and to insert ("preferable to leave the actual periods indicated above, which the "White Paper proposes should be 3 and 7 years, to be determined by "Order in Council, in the light of circumstances at the time, rather "than to fix them by Statute")

The same is agreed to

Paragraph 250 is again read, as amended

The further consideration of paragraph 250 is postponed

Paragraphs 251 to 258 are again postponed

Paragraph 259 is again read

It is moved by the Marquess of Linlithgow Page 152 line 30 after ("Federal") to insert ("Ministry")

The same is agreed to

Paragraph 259 is again read, as amended

The further consideration of paragraph 259 is postponed

Paragraph 260 is again read.

It is moved by the Marquess of Linlithgow. Page 153, line 25, to leave out ("proposed for the") and to insert ("during which it is pro-"posed to defer the full")

The same is agreed to

Paragraph 260 is again read, as amended

The further consideration of paragraph 260 is postponed

Land customs duties imposed by Indian States.

Paragraph 260A is read as amended and is as follows –

"260A It will be convenient to refer here to the power which the States already possess to impose customs duties on their land Frontiers It is greatly to be desired that States adhering to the Federation should, like the Provinces, accept the principle of internal freedom for trade in India and that the Federal Government alone should have the power to impose tariffs and other restrictions on trade Many States, however, derive substantial revenues from customs duties at their frontiers on goods entering the State from other parts of India These duties are usually referred to as internal customs duties, but in many of the smaller States are often more akin to octroi and terminal taxes than to customs In some of the larger States the right to impose these 1 duties is specifically limited by treaty We recognise that it is impossible to deprive States of revenue upon which they depend for balancing their budgets and that they must be free to alter existing rates of duty to suit varying conditions But internal customs barriers are in principle inconsistent with the freedom of interchange of a fully developed federation and we are strongly of the opinion that every effort should be made to substitute other forms of taxation for these internal customs The change must, of course, be left to the discretion of the States concerned as alternative sources of revenue become available We have no reason for thinking that the States contemplate any enlargement of the general scope of their tariffs and we do not believe that it would be in their interest to enlarge it But in any case we consider that the accession of a State to the Federation should imply its acceptance of the principle that it will not set up a barrier to free interchange so formidable as to constitute a threat to the future of the Federation and, if there should be any danger of this, we think that the powers entrusted to the Governor General in his discretion[1] would have to be brought to bear upon the States"

It is moved by the Marquess of Linlithgow Line 11, to leave out ("these duties") and to insert ("them")

The same is agreed to

Paragraph 260A is again read, as amended

The further consideration of paragraph 260A is postponed

Paragraphs 261 to 267 are again postponed

Paragraph 268 is again read

It is moved by the Lord Rankeillour Page 156, lines 26 and 27, to leave out from ("enquiry") in line 26 to the end of the sentence in line 27

The same is agreed to

It is moved by the Lord Rankeillour Page 156, line 29, to leave out ("such").

The same is agreed to

Paragraph 268 is again read, as amended.
The further consideration of paragraph 268 is postponed.

Paragraphs 269 and 270 are again postponed.

Paragraph 271 is again read.

It is moved by the Marquess of Zetland. Page 157, line 40, to leave out ("Government") and to insert ("Governments").

The same is agreed to.

Paragraph 271 is again read, as amended.

The further consideration of paragraph 271 is postponed.

Paragraphs 272 to 278 are again postponed.

Paragraph 279 is again read.

It is moved by the Lord Eustace Percy. Page 160, line 8, after ("Paper") to insert ("279A In addition to these rights and safe-"guards common to all members of the Public Services,").

The same is agreed to

Paragraph 279 is again read, as amended

The further consideration of paragraph 279 is postponed.

Paragraph 279A is read, as amended, and is as follows --

"279A In addition to these rights and safeguards common to all members of the Public Services, it is proposed that, after the commencement of the Act, the Secretary of State, who will continue to make appointments to the Indian Civil Service, the Indian Police and the Ecclesiastical Department, shall regulate the conditions of service of all persons so appointed, and it is intended that the conditions of service thus laid down shall in substance be the same as at present The power to regulate the conditions of service of officers not appointed by the Secretary of State, on the other hand, has, since 1926, been delegated to the Government of India in the case of the Central Services and to Provincial Government in the case of Provincial Services, and the White Paper contains no provisions as to the conditions of service to be applied to officers of these Services appointed after the commencement of the Constitution Act " Conditions of service of officers appointed by the Secretary of State

It is moved by the Marquess of Linlithgow and the Lord Eustace Percy. To leave out paragraph 279A

The same is agreed to

Paragraphs 280 and 282 are again postponed.

It is moved by the Marquess of Linlithgow. Page 161, after paragraph 282, to insert the following new paragraph:—

("282A It is proposed that, after the commencement of the Act, the Secretary of State, who will continue to make appointments to the Indian Civil Service, the Indian Police and the Ecclesiastical Department shall regulate the conditions of service of all persons so appointed, and it is intended that the conditions of service thus laid down shall in substance be the same as at present The power to regulate the conditions of service of officers not appointed by

the Secretary of State, on the other hand, has, since 1926, been delegated to the Government of India in the case of the Central Services and to Provincial Governments in the case of Provincial Services, and the White Paper contains no provision as to the conditions of service to be applied to officers of these Services appointed after the commencement of the Constitution Act.")

The same is agreed to.

New paragraph 282A is again read.

The further consideration of **paragraph 282A is postponed.**

Paragraphs 283 to 283B **are again postponed.**

Paragraph 283C is read, as amended, and is as follows:—

States and rights of central and Provincial Services not to be inferior to those All-India Services.

("283C. But, further, than this, it will in our view be essential that the Central and Provincial Legislatures respectively should give general legal sanction to the status and rights of the Central and Provincial Services. The special responsibility of the Governor General and Governors would of course in any case extend to securing the legitimate interests as well as the rights of members of these Services; but it is on all grounds desirable that the Executive Government as a whole should be authorised and required by law to give these Services the necessary security. The principal existing rights of members of these Services are set out in List II of Appendix VII of the White Paper. We think that the Legislatures, in passing Provincial Civil Service Acts authorising and requiring the Executive Government to give these Services, the necessary security, would be well advised to consider whether, to meet the new conditions, List II of Appendix VII of the White Paper should be enlarged by appropriate additions from List I of the same Appendix, wherein are set out the principal existing rights of officers appointed by the Secretary of State. In our view the status and rights of the Central and Provincial Services should not be, in substance, inferior to the status and rights of persons appointed by the Secretary of State in regard to the two main points covered by List I. These two points are firstly, protection against individual injury amounting to breach of contract and against individual unfair treatment through disciplinary action or refusal of promotion; and, secondly, protection against such arbitrary alterations in the organisation of the Services themselves as might damage the professional prospects of their members generally. On the first point, these Provincial Civil Service Acts could not, indeed, determine in detail the rates of pay, allowances and pensions, and the conditions of retirement of all civil servants, nor the procedure to be followed in considering their promotion on the one hand, or, on the other, their dismissal, removal, reduction or formal censure. Such Acts could however, confer general powers and duties for these purposes on the Government and in regard to promotions, they could provide definitely that canvassing for promotion or appointments shall disqualify the candidate, and that orders of posting or promotion in the higher grades shall require the personal concurrence of the Governor. On the second point, it is admittedly more difficult to give security to the Services as a whole in respect of their general organisation; yet the morale of any Service must largely depend upon reasonable prospects of promotion, and this must mean that there is a recognised cadre of higher-paid posts which, while naturally subject to modification in changing circumstances, will not be subject to violent and arbitrary disturbance. A Legislature does nothing derogatory to its own rights and powers if it confers upon the Executive by law the duty of fixing such cadres and of reporting to the Legislature if any post in these cadres is at any time held in abeyance.")

It is moved by Mr. Cocks, Mr Attlee, Mr. Morgan Jones, and the Lord Snell. Lines 10 to 45, to leave out from ("Paper.") in line 10, to the end of the paragraph and to insert ("The continuance in full of these rights is "secured under the White Paper proposals").

The same is disagreed to

Paragraph 283C is again read

The further consideration of paragraph 283C is postponed

Paragraphs 283D to 292 are again postponed.

Paragraph 293 is again read.

It is moved by the Viscount Halifax. Page 166, lines 7 and 8, to leave out ("the political side of the Department') and to insert ("both").

The same is agreed to.

It is moved by the Viscount Halifax. Page 166, lines 9 and 10, to leave out ("in that Department") and to insert ("on the internal side").

The same is agreed to.

Paragraph 293 is again read, as amended

The further consideration of paragraph 293 is postponed

Paragraphs 294 to 304 are again postponed.

Paragraph 305 is again read, as amended, and is as follows -

"305 In so far as the apprehension may be that a temporary deficiency in the cash required to meet such current obligations as the issue of monthly pay might occur, not through any failure in the annual revenues, but through excessive commitments in other directions, the good sense of the Government and the advice of a strong Finance Department, must in our opinion be relied on as the real safeguard Nor must it be forgotten that, although a Governor will not have a special responsibility for safeguarding the financial stability and credit of the Province, it will most certainly be his duty to see that he has information furnished to him which would enable him to secure such financial provision as may be required for the discharge of his other special responsibilities, including of course his special responsibility for safeguarding the legitimate interests of the Services If need arose for the Governor to take special steps for the purpose, in virtue of his special responsibilities, it would of course be open to him to adopt whatever means were most appropriate in the circumstances, and, if necessary, to meet the situation by borrowing. The powers available to him personally in this respect would be identical with those available to the provincial Government. If he should seek assistance from the Federal Government in the form of a loan, his application would be governed by the provision relating to provin-
21 cial borrowing which we have already advocated.[1]"

No special provision required

It is moved by the Lord Rankeillour. Line 21, at the end to insert ("the Governor-General will of course be responsible for securing the interest of officers serving at the centre").

The same is agreed to.

Paragraph 305 is again read, as amended

The further consideration of paragraph 305 is postponed.

Paragraph 306 is again read, as amended, and is as follows: —

Claims for pensions by officers appointed by the Secretary of State.

"306. We have said that no distinction can, or ought to be, drawn between the claim of the various classes of officers serving in a Province for the due payment of their emoluments, but to this general statement of principle we think that there should be one qualification. If difficulties should unfortunately arise in regard to a claim to pension by an officer appointed by the Secretary of State who has served from time to time in different Provinces, we think that it would be unreasonable that he should have to make his claim against a number of authorities in respect of different portions of his pension We therefore approve the proposal in the White Paper that the claims of all officers appointed by the Secretary of State for their pensions should be against the Federal Government direct, the necessary adjustments being made subsequently between the Federal Government in the Province or Provinces concerned[2]; and, if that recommendation is adopted, we think that officers appointed by the Secretary of State need have no anxiety regarding the regular and punctual payment of their own pensions and those of their dependents Existing rights of 16
suit against the Secretary of State will be preserved"

It is moved by Sir Reginald Craddock. Line 16, after ("dependents.") to insert ("Pensions of retired officers, if appointed before "the commencement of the Constitution Act, and the pensions of "their dependents will be exempt from Indian taxation if the "pensioner is residing permanently outside India. The pensions of "officers, appointed by the Secretary of State, or by the Crown "after that date, and the pensions of their dependents will also "be exempt from Indian taxation if the pensioner is residing "permanently outside India")

The same is agreed to

Paragraph 306 is again read, as amended

The further consideration of paragraph 306 is postponed

It is moved by the Lord Eustace Percy Page 170, after paragraph 306, to insert the following new paragraph·

("306A We should not, however, wish to leave this subject without making a general statement in regard to the pensions of these officers These pensions like the pensions of all retired members of the Public Services of India, are a charge upon the revenues of India, and there can be no more binding obligation resting upon the Government of India than to meet this charge in full and ungrudgingly But, though we do not doubt that it will be so met, the obligation rests not only upon the Government of India to meet it, but also upon His Majesty's Government to see that it is so met His Majesty's Government have, in fact, pledged the revenues of India for this purpose and it is their duty to see that that pledge is made effective The Governor-General must therefore, be armed with full powers to meet the liabilities thus secured upon the revenues of India and our approval of the proposals of the White Paper is based on the understanding that the Constitution Act will, in fact, arm him with such powers")

The same is agreed to

New paragraph 306A is again read.

The further consideration of paragraph 306A is postponed.

Paragraph 307 is again read, as amended, and is as follows:—

Family Pension Fund.

"307. There is, however, one category of pension payments which
stands apart from the rest, namely, the pensions payable to
families of officers, civil and military, the cost of which is met
not from the revenues of India but from funds accumulated by
5 means of subscriptions paid by the officers themselves. These
accumulated funds are in equity the property of the subscribers,
and we think it right that the fullest possible consideration should
8 be given to their views as to the disposal of the money. A full
account of the nature of the Funds and of the steps taken to
ascertain the views of subscribers is given in a Note by the
Secretary of State for India which is printed in the Committee's
Records.* The Note also contains in some detail proposals for
meeting the subscribers' wishes. We recommend that His Majesty's
Government should take action on the lines indicated in this Note."

It is moved by the Lord Hardinge of Penshurst. Lines 5 to 8, to leave out from ("themselves.") in line 5 to ("A") in line 8 and to insert ("These accumulated funds are in equity the property of "the subscribers of which the British Government are, from the "nature of the history of the case, quasi-trustees, and constitute an "equitable charge on the revenues of the Government of India. "We think it right that the fullest possible consideration should "be given to the views of the contributors as to the disposal of "their money.")

The consideration of the above amendment is postponed.

The further consideration of paragraph 307 is postponed till to-morrow.

Paragraphs 308 to 310 are again postponed.

Paragraph 311 is again read.

It is moved by the Marquess of Zetland.* Page 173, lines 3 and 4, to leave out from the first ("a") in line 3 to the end of line 4 and to insert ("Federal Unit or between Federal Units").

The same is agreed to.

It is moved by the Lord Eustace Percy. Page 173, line 9, to leave out ("But") and to insert ("For that reason,") and after ("that") to insert (",where the parties are Units of the Federation or the Federa "tion itself,").

The same is agreed to.

It is moved by the Lord Eustace Percy Page 173, lines 12 to 15, to leave out from ("Legislature") in line 12 to the end of the paragraph

The same is agreed to.

Paragraph 311 is again read, as amended.

The further consideration of paragraph 311 is postponed.

Paragraph 312 is again read.

It is moved by the Lord Eustace Percy. Page 173, line 24, after ("laws.") to insert ("It is essential that there should be some authori-"tative tribunal in India which can secure a uniform interpretation "of federal laws throughout the whole of the Federation").

The same is agreed to.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 173, lines 39 and 40, to leave out from ("kind") in line 39 to the end of the sentence.

The same is agreed to.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 173, lines 41 and 42, to leave out ("can only arise") and to insert ("arises").

The same is agreed to.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 173, line 44, to leave out ("It is, however") and to insert ("This being so, and since it is").

The same is agreed to

It is moved by Sir Samuel Hoare and Mr. Butler. Page 173, line 46, to page 174, line 3, to leave out from ("from") in line 46, page 173, to the end of the paragraph and to insert ("We think the position of "the States would be appropriately safeguarded if it were provided "that the granting of leave to appeal by the Federal Court were in "the form of Letters of Request, directed to the Ruler of the State "to be transmitted by him to the Court concerned.")

The same is agreed to

Paragraph 312 is again read, as amended.

The further consideration of paragraph 312 is postponed

Paragraphs 313 to 315 are again postponed

Paragraph 316 is again read

It is moved by the Lord Eustace Percy Page 175, line 38, after ("Federal") to insert ("cases,")

The same is agreed to.

Paragraph 316 is again read, as amended

The further consideration of paragraph 316 is postponed

Paragraph 317 is again read, as amended, and is as follows

A Court of Criminal Appeal not recommended.

"317 The Supreme Court under the White Paper proposals would, however, as we have said, have jurisdiction to hear certain criminal appeals from British India We are satisfied that these would be so numerous that, if the Federal Court were given the extended jurisdiction which we have suggested, an increase in the number of Judges would be required in excess of anything which we should be willing to contemplate The question then arises whether the Federal Legislature should be empowered, if and when they thought fit, to set up a separate Court of Criminal Appeal for British India, subordinate to the Federal Court After careful consideration we have come to the conclusion that a Court of Criminal Appeal is not required in India Nearly every case involving a death sentence is tried in a District Court, from which an appeal lies to the High Court, and, apart from this, no death sentence can be carried out until it has been confirmed by the High Court. Only three of the High Courts (excluding Rangoon) exercise an original criminal jurisdiction, and though there is no further appeal from these Courts, every prisoner under sentence of death can appeal for remission or commutation of sentence to the Provincial Government and after that to the Governor-General in 18
Council or, if he wishes, can ask for special leave to appeal to the 19
Privy Council In these circumstances, the rights of a condemned man seem to be very fully safeguarded, and we think that no good purpose would be served by adding yet another Court to which appeals can be brought." 23

It is moved by Sir Samuel Hoare and Mr. Butler. Lines 18 and 19, to leave out ("and after that to the Governor-General in Council").

The same is agreed to.

It is moved by Sir Samuel Hoare and Mr. Butler. Line 23, at the end to insert ("We should add that at present under the Criminal "Procedure Code, a condemned prisoner can apply for commutation "of his sentence not only to the provincial Government but also to the "Governor-General in Council. We think that under the new Consti- "tution the determination of applications for commutation or re- "mission of sentence under s. 401 of the Code should rest with the "authority primarily responsible for the preservation of Law and "Order, namely, the provincial Government, and that the Federal "Government, that is to say the Governor General acting on the "advice of his Ministers, as the successor of the Governor-General "in Council should no longer possess this statutory power of com "muting or remitting sentences. At the same time, we are reluctant "to diminish the opportunities for appeal which are at present "enjoyed under the Indian Law, and we recommend that the power "now exercisable in this respect by the Governor-General in Council "should henceforth vest in the Governor-General acting in his dis- "cretion, to whom, in addition, there will, we assume, be delegated "as at present the prerogative power of pardon.")

The same is agreed to.

Paragraph 317 is again read, as amended

The further consideration of paragraph 317 is postponed

Paragraph 318 is again read

It is moved by the Marquess of Linlithgow. Page 176, line 40, after ("that") to insert ("this").

The same is agreed to.

Paragraph 318 is again read, as amended.

The further consideration of paragraph 318 is postponed

Paragraphs 319 and 319A are again postponed.

Paragraph 320 is again read.

It is moved by the Marquess of Zetland. Page 177, line 17, after ("reserve") to insert ("for the signification of His Majesty's pleasure").

The same is agreed to.

Paragraph 320 is again read, as amended

The further consideration of paragraph 320 is postponed.

Paragraph 320A is read, as amended, and is as follows:

Future constitutional position of High Courts.

"320A We think it desirable to explain the general effect of our recommendations upon the High Courts. Their constitution will, as at present, be laid down in the Constitution Act and the appointments to them will remain with the Crown: the Constitution Act will, moreover, itself regulate more precisely than at present the nature and extent of the superintendence to be exercised by a High Court over the Subordinate Courts of the Province—the nature and extent, in fact, of what may be described as their administrative jurisdiction No change will be made in their relations with the Provinces in regard to the administrative questions affecting their establishment and buildings, except that the Calcutta High Court will henceforth have relations in these respects with the Bengal Government direct and not, as at present, with the Central Government (which, even as matters stand, naturally consults the Bengal Government upon any

proposals made before it by the Court): but the supply required by the High Court will be determined by the Governor after consultation with his Ministers, and will not be subject to the vote of the Provincial Legislature. As regards the juridical jurisdiction of the High Courts, in so far as this depends—as it mainly does depend—upon provisions of Indian enactments, it will henceforth be determined by enactments of that Legislature which is competent to regulate the subject in respect of which questions of the High Court's jurisdiction arise: that is to say, it will be for the Federal Legislature alone to determine the jurisdiction of the High Court in respect of any matter upon which that Legislature has exclusive power to legislate, for the Provincial Legislature to determine the jurisdiction of its High Court in respect of any exclusively provincial subject, and for both to determine (subject to the principles governing legislation in the concurrent field) in respect of any matter on which both Legislatures are competent to legislate It will thus be seen that the High Courts, under our proposals, will be institutions which will not accurately be described as either federalised or provincialised. They
will form an integral part of the constitutional machinery and the 32
various aspects of their activities as such will be regulated by the
authority appropriate for the purpose." 34

It is moved by the Lord Rankeillour. Lines 32 to 34, to leave out from the beginning of line 32 to the end of the paragraph.

The same is agreed to.

Paragraph 320A is again read, as amended

The further consideration of paragraph 320A is postponed.

It is moved by the Lord Rankeillour After paragraph 320A to insert the following new paragraph:

("320B. In concluding this portion of our Report, we desire to call attention to the importance of safeguarding the judiciary, from criticism in the legislatures of their conduct, in the discharge of their duties. The rule and practice of Parliament protect the judiciary from such criticism in this country, and, we recommend that adequate provision should be made to safeguard judges in India")

The same is agreed to.

New Paragraph 320B is again read.

The further consideration of paragraph 320B is postponed

Paragraphs 321 to 323 are again postponed.

Paragraph 324 is again read.

It is moved by the Lord Rankeillour. Page 179, lines 26 and 27, to leave out ("after consultation with") and to insert ("with the assent of").

The amendment, by leave of the Committee, is withdrawn

Paragraph 324 is again read.

The further consideration of paragraph 324 is postponed.

Paragraphs 325 to 327 are again read.

Paragraph 328 is again read, as amended, and is as follows:—

The Fiscal Convention and the new Constitution.

"328. But in making our recommendations to this end, we wish to make it clear at the outset that we contemplate no measure which would interfere with the position attained by India as an integral part of the British Empire through the Fiscal Convention

5 Fears have, indeed, been expressed lest the exercise of powers by
6 the Indian Legislature which the Convention contemplated might result in the imposition of penal tariffs on British goods or in the application to them of penally restrictive regulations with the object not of fostering Indian trade, but of injuring and excluding British trade. The answer to these fears is that the Convention could never, in fact, have been applied in aid of such a policy; and we have been assured by the Indian Delegates that there will be no desire in India to utilise any powers they may enjoy under the new Constitution for a purpose so destructive of the conception of partnership upon which all our recommendations are based. But, if this be so, it would be clearly of great advantage to allay the fears of which we have spoken by a declaration through and under the Constitution Act of the principles governing the relations between the two countries. The machinery of the Governor General's special responsibilities, supplemented by his Instrument of Instructions, offers India and the United Kingdom the opportunity of making such a declaration of principles, while at the same time ensuring the necessary flexibility in their interpretation and application."

It is moved by the Lord Eustace Percy: Lines 5 and 6, to leave out from ("exercise") in line 5 to ("might") in line 6 and to insert ("by the Indian Legislature of the powers contemplated in the "Convention")

The same is agreed to.

Paragraph 328 is again read, as amended.

The further consideration of paragraph 328 is postponed.

Paragraph 329 is read, as amended, and is as follows:

"329. We therefore recommend that to the special responsibilities of the Governor-General enumerated in the White Paper there should be added a further special responsibility defined in some such terms as follows: 'The prevention of measures, legislative or administrative, which would subject British goods, imported
6 into India from the United Kingdom, to discriminatory or penal treatment.' But, as it is important that the scope which we intend to be attached to the special responsibility so defined should be explained more exactly than could conveniently be expressed in statutory language, we further recommend that the Governor-General's Instrument of Instructions should give him full and clear guidance. It should be made clear that the imposition of this special responsibility upon the Governor-General is not intended to affect the competence of his Government and of the Indian Legislature to develop their own fiscal and economic policy, that they will possess complete freedom to negotiate agreements with the United Kingdom or other countries for the securing of mutual tariff concessions, and that it will be his duty to intervene in tariff policy or in the negotiation or variation of tariff agreements only if in his opinion the intention of the policy contemplated is to subject trade between the United Kingdom and India to restrictions conceived not in the economic interests of India but with the object of injuring the interests of the United Kingdom. It should further be made clear that the "discriminatory or penal treatment" covered by this special responsibility includes both direct discrimination (whether by means of differential tariff rates or by means of differential restrictions on imports) and indirect discrimination by means of differential treatment of various types of products; and that the Governor-General's special responsibility could also be used to prevent the imposition of prohibitory tariffs or restrictions, if he were satisfied that such measures were proposed with the intention already described. In all these respects, the words would cover measures which, though not discriminatory or penal in form, would be so in fact."

Governor-General should have a special responsibility to prevent penal discrimination against British imports.

It is moved by Sir Samuel Hoare and Mr. Butler. Line 6, after ("treatment") to insert reference to a footnote and to insert as the footnote ("[1]See also *infra* Paragraph 443A.")

The same is agreed to.

Paragraph 329 is again read, as amended.

The further consideration of paragraph 329 is postponed.

Paragraphs 329A to 330 are again postponed.

Paragraph 331 is again read.

It is moved by Sir John Wardlaw-Milne. Page 182, line 45, to page 183, line 6, to leave out from ("it.") in line 45, page 182, to ("Lastly") in line 6, page 183, and to insert ("Secondly we are of opinion that "these arrangements can only be extended to include the relations "between India and other parts of His Majesty's Dominions by mutual "agreement.")

The same is agreed to.

It is moved by Mr. Morgan Jones, Mr. Attlee, Mr. Cocks, and the Lord Snell. Page 183, lines 6 and 7, to leave out from ("that") in line 6 to ("any") in line 7.

The amendment, by leave of the Committee, is withdrawn.

Paragraph 331 is again read, as amended.

The further consideration of paragraph 331 is postponed.

Paragraph 332 is again read.

It is moved by Mr. Morgan Jones, Mr. Attlee, Mr. Cocks, and the Lord Snell. Page 183, lines 10 to 21, to leave out from ("opinion") in line 10 to the end of the paragraph and to insert ("that the consent "of the Governor-General given in his discretion should be required to "the introduction in the Federal or Provincial Legislatures of any "measure of the discriminatory nature referred to in Proposals 122 "and 123 of the White Paper.").

The amendment, by leave of the Committee, is withdrawn.

Paragraph 332 is again read.

The further consideration of paragraph 332 is postponed.

Paragraphs 333 to 337 are again postponed.

Paragraph 338 is read, as amended and is as follows:—

Bills discriminatory in fact though not in form.

"338. But it will be the duty of the Governor-General and of the Governors to exercise their discretion in giving or withholding their assent to Bills. And we think that the Instrument of Instructions should make it plain, as we have already indicated in connexion with the Governor-General's special responsibility in relation to tariffs, that it is the duty of the Governor-General and of the Governors in exercising their discretion in the matter of assent to Bills not to feel themselves bound by the terms of the statutory prohibitions in relation to discrimination but to withhold their assent from any measure which, though not in form discriminatory, would in their judgment have a discriminatory effect. We have made, we hope, sufficiently plain the scope and the nature of the discrimination which we regard it as necessary to prohibit, and we have expressed our belief that statutory prohibitions should be capable of being so framed as generally to

secure what we have in view. We are conscious, however, of the
16 difficulty of framing completely watertight prohibitions and of
the scope which ingenuity may find for complying with the letter
of the law in a matter of this kind while violating its spirit. It
is, in our view, an essential concomitant of the stage of responsible
government which our proposals are designed to secure that the
discretion of the Governor-General and of the Governors in the
granting or withholding of assent to all Bills of their Legislature
should be free and unfettered; and in this difficult matter of
discrimination in particular we should not regard this condition
as fulfilled if the Governor-General and Governors regarded the
exercise of their discretion as restricted by the terms of the statu
tory prohibitions. We further recommend that the Instrument of
Instructions of the Governor-General and the Governor should
require him, if in any case he feels doubt whether a particular
Bill does or does not offend against the intentions of the Constitu
tion Act in the matter of discrimination, to reserve the Bill for
the signification of His Majesty's pleasure. We need hardly add
that the effect of our recommendations for the statutory prohibi
tion of certain specified forms of discrimination would lay open
to challenge in the Courts as being *ultra vires* any legislative
enactment which is inconsistent with these prohibitions, even if
35 the Governor-General or the Governor has assented to it.

It is moved by the Viscount Halifax. Line 16, to leave out ("may") and to insert ("might").

The same is agreed to.

It is moved by Mr. Cocks, Mr. Attlee, Mr. Morgan Jones, and the Lord Snell. Line 35, after ("it") to insert ("except in a case where "the Governor-General or Governor has declared in his discretion that "the enactment is necessary in the interests of the peace and tranquil "lity of India (or a Province, as the case may be) or any part "thereof.")

The amendment, by leave of the Committee, is withdrawn.

Paragraph 338 is again read, as amended.

The further consideration of paragraph 338 is postponed.

Paragraphs 339 to 342 are again postponed.

Paragraph 343 is again read.

It is moved by Sir Samuel Hoare on behalf of the Marquess of Zetland. Page 188, lines 46 and 47, to leave out ("themselves") and to insert ("himself").

The same is agreed to.

Paragraph 343 is again read, as amended.

The further consideration of paragraph 343 is postponed.

Paragraphs 344 to 347 are again postponed.

Paragraph 348 is again read, as amended, and is as follows:—

"348. Among the proposals in the White Paper is one which
would put it beyond the power of any Legislature in British India
to make laws (with certain exceptions) subjecting any British
subject to any disability or discrimination in respect of a variety
of specified matters, if based upon religion, descent, caste, colour
6 or place of birth.[2] This proposal seems to us too wide and likely
7 to fetter unduly the powers of the Indian Legislatures; and we
understand that His Majesty's Government have, after consulta-
tion with the Government of India, arrived at the same conclusion.
We agree that some declaration of the general rights of British
subjects in India is required, but we think that it would be prefer-
able to base it upon the existing section of the Government of

Eligibility for holding public office, etc.

India Act. We think that this declaration should provide that no British subject, Indian or otherwise, domiciled in India shall be disabled from holding public office or from practising any trade, profession or calling by reason only of his religion, descent, caste, 15
colour or place of birth; and it should be extended, as regards the holding of office under the Federal Government, to subjects of Indian States.

"The proposal in the White Paper, however, goes on to say that 18
'no law will be deemed to be discriminatory for this purpose on the ground only that it prohibits either absolutely or with exceptions the sale or mortgage of agricultural land in any area or to any person not belonging to some class recognised as being a class of persons engaged in, or connected with, agriculture in that area, or which recognises the existence of some right, privilege or disability attaching to members of a community by virtue of some privilege, law or custom having the form of law.' This proviso is intended to cover legislation such as the Punjab Land Alienation Act, which is designed to protect the cultivator against the money lender. This is no doubt a desirable object. Inasmuch, however, as the full effect of the proviso cannot be foreseen and may have the result that the legitimate interests of minorities may be impaired while they are denied the right of appeal to the Courts for redress, we think that in cases where the legitimate interests of minorities may be adversely affected and access to the courts is barred by this proviso in the constitution, the Governor should consider whether his special responsibility for the protection of minorities necessitates action on his part"

It is moved by the Lord Eustace Percy. Lines 6 and 7, to leave out from ("wide") in line 6 to ("and") in line 7.

The same is agreed to.

It is moved by Mr. Cocks, Mr. Attlee, Mr. Morgan Jones, and the Lord Snell. Line 15, after ("his") to insert ("sex").

The same is disagreed to.

It is moved by the Lord Eustace Percy. Line 18, to leave out ("goes on to say") and to insert ("contains a proviso which would, "in one respect, still further limit the effect of this narrower "declaration of rights, namely")

The same is agreed to.

Paragraph 348 is again read, as amended.

The further consideration of paragraph 348 is postponed.

Paragraph 349 is again read.

It is moved by Sir Samuel Hoare and the Lord Eustace Percy Page 191, to leave out paragraph 349 and to insert the following new paragraph:—

("349. We think that some general provision should be inserted in the Constitution Act safeguarding private property against expropriation, in order to quiet doubts which have been aroused in recent years by certain Indian utterances. It is obviously difficult to frame any general provision with this object without unduly restricting the powers of the Legislature in relation particularly to taxation; in fact, much the same difficulties would be presented as those which we have discussed in an earlier paragraph in relation to fundamental rights. We do not attempt to define with precision the scope of the provision we have in mind, the drafting of which will require careful consideration for the reasons we have indicated: but we think that it should secure that legislation expropriating, or authorising the expropriation of, the property of particular individuals should be lawful only if confined to expropriation for public purposes and if compensation is

determined, either in the first instance or on appeal, by some independent authority. General legislation, on the other hand, the effect of which would be to transfer to public ownership some particular class of property or to extinguish or modify the rights of individuals in it, ought, we think, to require the previous sanction of the Governor or Governor General (as the case may be) to its introduction, and in that event he should be directed by his Instrument of Instructions to take into account as a relevant factor the nature of the provisions proposed for compensating those whose interests will be adversely affected by the legislation.")

Objected to.

On Question:

Contents (18)	Not Contents (3)
Marquess of Salisbury	Lord Snell
Marquess of Linlithgow	Mr. Cocks
Earl Peel	Mr. Morgan Jones
Viscount Halifax	
Lord Middleton	
Lord Rankeillour	
Lord Hutchison of Montrose	
Mr. Butler	
Major Cadogan	
Sir Austen Chamberlain	
Sir Reginald Craddock	
Mr. Davidson	
Mr. Foot	
Sir Samuel Hoare	
Sir Joseph Nall	
Lord Eustace Percy	
Sir John Wardlaw-Milne	
Earl Winterton	

The same is agreed to.

New paragraph 349 is again read.

The further consideration of paragraph 349 is postponed.

Paragraph 349A is again read, as amended, and is as follows:—

1 "349A. But there is another form of private property—perhaps more accurately described as 'vested interest'—common in India which we think requires more specific protection. We refer to grants of land or of tenure of land free of land revenue, or subject to partial remissions of land revenue, held under various names (of which Taluk, Inam, Watan, Jagir and Moafi are examples) throughout British India by various individuals or classes of individuals. Some of these grants date from Moghul or Sikh times and have been confirmed by the British Government; others have been granted by the British Government for services rendered. Many of the older grants are enjoyed by religious bodies and are held in the names of the managers for the time being. The terms of these grants differ; older grants are mostly perpetual; modern grants are mostly for three or even two, generations. But, whatever their terms, a grant of this kind is always held in virtue of a specific undertaking given by, or on the authority of, the British Government that, subject in some cases to the due observance by the grantee of specified conditions, the rights of himself and his successors will be respected either for all time or, as the case may be, for the duration of the grant. A well-known instance of such

Special case of grants of land or of tenure of land free of land revenue

rights is to be found in those enjoyed by the present Talukdars of Oudh, who owe their origin to the grant to their predecessors of sanads by Lord Canning, the then Governor-General, conferring proprietary rights upon all those who engaged to pay the *jumma* which might then, or might from time to time subsequently, be fixed subject to loyalty and good behaviour, and the rights thus conferred were declared to be permanent, hereditary and transferable "

It is moved by Sir Samuel Hoare and Mr Butler Line 1 to leave out ("another") and to insert ("a").

The same is agreed to.

Paragraph 349A is again read, as amended.

The further consideration of paragraph 349A is postponed

Paragraphs 349B to 350 are again postponed.

Paragraph 351 is again read

It is moved by the Marquess of Linlithgow Page 192, line 24, after ("Federation") to insert (", States") and to leave out ("of Province "and Province")

The same is agreed to

Paragraph 351 is again read, as amended

The further consideration of paragraph 351 is postponed

Paragraph 352 is again postponed

Paragraph 353 is again read

It is moved by the Marquess of Linlithgow. Page 193, line 19, to leave out ("three") and to insert ("two").

The same is agreed to.

Paragraph 353 is again read, as amended.

The further consideration of paragraph 353 is postponed

Paragraph 354 is again read.

It is moved by the Marquess of Salisbury Page 194, after line 14, at the end, to insert ("We think that the same method should be "applied to the revision or adjustment of provincial boundaries.").

The same is agreed to.

Paragraph 354 is again read, as amended

The further consideration of paragraph 354 is postponed

Paragraph 355 is again read.

It is moved by the Marquess of Salisbury Page 194, lines 19 to 25, to leave out from ("Parliament") in line 19 to the end of line 25.

The same is agreed to.

It is moved by the Lord Eustace Percy. Page 194, lines 28 to 30, to leave out from ("matters,") in line 28 to the end of the paragraph.

The same is agreed to.

Paragraph 355 is again read, as amended

The further consideration of paragraph 355 is postponed.

Paragraphs 356 to 363 are again postponed.

Paragraph 364 is again read

It is moved by Mr Cocks, Mr Attlee, Mr Morgan Jones, and the Lord Snell Page 198, lines 40 to 42, to leave out from ("that") in line 40 to ("any") in line 42

The amendment, by leave of the Committee, is withdrawn

Paragraph 364 is again read

The further consideration of paragraph 364 is postponed.

Paragraph 365 is again postponed.

Paragraph 366 is again read

It is moved by Mr Attlee, Mr Cocks, Mr Morgan Jones, and the Lord Snell Page 200, line 16, to leave out from ("foundation") to the end of the line

The consideration of the said amendment is postponed till to-morrow

It is moved by Sir Samuel Hoare and Mr Butler. Page 200, lines 21 to 26, to leave out from ("Constitution") in line 21 to ("Reliance") in line 26, and to insert ("We understand that it is expected that, "in the absence of unforeseen developments, it will be possible for the "Bank to be constituted and to start its operations during the course "of next year ")

The same is agreed to

The further consideration of paragraph 366 is postponed till to morrow

Ordered that the Committee be adjourned till to morrow at Three o'clock

Die Jovis 11° Octobris 1934

Present:

LORD ARCHBISHOP OF CANTERBURY.
MARQUESS OF SALISBURY.
MARQUESS OF ZETLAND.
MARQUESS OF LINLITHGOW.
MARQUESS OF READING.
EARL OF DERBY.
EARL PEEL.
VISCOUNT HALIFAX.
LORD MIDDLETON.
LORD HARDINGE OF PENSHURST.
LORD SNELL.
LORD RANKEILLOUR.
LORD HUTCHISON OF MONTROSE.

MR. ATTLEE.
MR. BUTLER.
MAJOR CADOGAN.
SIR AUSTEN CHAMBERLAIN.
MR. COCKS.
SIR REGINALD CRADDOCK.
MR. DAVIDSON.
SIR SAMUEL HOARE.
MR. MORGAN JONES.
SIR JOSEPH NALL.
LORD EUSTACE PERCY.
SIR JOHN WARDLAW-MILNE.
EARL WINTERTON.

THE MARQUESS OF LINLITHGOW in the Chair.

The Order of Adjournment is read.

The Proceedings of yesterday are read.

Paragraphs 367 to 453 are again postponed.

Paragraphs 1 to 22 are again postponed.

Paragraph 23 is again read.

It is moved by the Lord Eustace Percy. Page 14, line 46, to leave out the second ("and") and to insert a full stop.

The same is agreed to.

It is moved by the Lord Eustace Percy. Page 14, line 47, after ("Governor") to insert ("and so strongly have we been impressed by "the need for this power, and by the importance of ensuring that the "Governor shall be able to exercise it promptly and effectively, that, "among other alterations in the White Paper, we have felt obliged "to make a number of additional recommendations in regard to the "Governor's sources of information, the protection of the police and "the enforcement of law and order")

The same is agreed to

Paragraph 23 is again read, as amended.

The further consideration of paragraph 23 is postponed.

Paragraphs 24 and 25 are again postponed.

All amendments are to the Draft Report (*vide supra* paras. 1-42B, pp. 470-491; and paras. 42-453, pp. 64-258) and NOT to the Report as published (Vol. I, Part I).

A Key is attached (*see* p. 627 *et seq.*), showing on which pages of the Proceedings amendments to each paragraph can be found.

Paragraph 26 is again read.

It is moved by the Lord Eustace Percy. Page 16, line 16, after ("India") to insert ("We have devoted particular attention to the "form of the Central Legislature and shall have to recommend the "substitution of an alternative scheme for the White Paper proposals").

The same is agreed to.

Paragraph 26 is again read, as amended.

The further consideration of paragraph 26 is postponed.

Paragraphs 27 to 30 are again postponed.

Paragraph 31 is again read.

It is moved by the Lord Eustace Percy. Page 19, line 1, after ("trade") to insert ("The rights of the States in this respect cannot "be abolished, but, as we shall indicate in paragraph 262, moderation "in the use of them can be made a condition of federation".)

The same is agreed to.

Paragraph 31 is again read, as amended.

The further consideration of paragraph 31 is postponed.

Paragraphs 32 to 70 are again postponed.

Paragraph 71 is read, as amended, and is as follows:—

Relations between Governor and Ministers.

"71. We have already pointed out that in the present Government of India Act, there is a provision which requires the Governor to be 'guided by' the advice of his Ministers in all matters relating to transferred subjects, unless he sees sufficient cause to dissent from their opinion. The White Paper, as we read it, does not propose that the Constitution Act itself shall contain any provisions on this subject. The Act will commit certain matters to the Governor's sole discretion, such, for instance, as his power of veto over legislation and the regulation of matters relating to the administration of excluded areas. It will also contain a declaration that certain special responsibilities are to rest upon the Governor. For the rest, it will provide that the Governor shall have a Council of Ministers to aid and advise him, but his relations with his Ministers are left to be determined wholly by the Instrument of Instructions. We agree that it is desirable that the Governor's special responsibilities, over and above the matters which are committed to his sole discretion, should be laid down in the Act itself rather than that they should be left to be enumerated thereafter in the Instrument of Instructions. In the first place, Indian public opinion will thereby be assured that the discretionary powers of the Governor to dissent from his Ministers' advice is not intended to be unlimited; and, secondly, the right will thereby be secured to Parliament to consider and debate the scope of the Governor's powers before the Constitution Bill passes 22

finally from their control. On the other hand, we agree that it 22
would be undesirable to seek to define the Governor's relations with his Ministers by imposing a statutory obligation upon him to be guided by their advice, since to do so would be to convert a constitutional convention into a rule of law and thus, perhaps, to bring it within the cognisance of the courts." 23

It is moved by the Lord Eustace Percy Lines 22 and 23, to leave out from ("powers") in line 22, to ("On") in line 23, and to insert ("during the passage of the Constitution Bill itself")

The same is agreed to

It is moved by the Lord Eustace Percy Line 28, at end to insert (" We do not, however, think that the inherent legal power "of the Governor (to which we have referred in paragraph 72) "to act upon his own responsibility is set forth with sufficient "clearness in proposals 70—73 of the White Paper, and we recom "mend that it should be more explicitly defined")

The same is agreed to.

Paragraph 71 is again read, as amended

The further consideration of paragraph 71 is postponed

Paragraphs 72 to 135 are again postponed

Paragraph 136 is again read

It is moved by Sir Reginald Craddock. Page 67, line 17, at the end to insert ("We desire to add in this connection that it would, in "our opinion, be unwise to abandon, as the White Paper proposes, "the disqualification for candidature for a legislative body which "under existing Rules follows (subject to a dispensing power) upon "conviction for a criminal offence involving a sentence of imprison "ment exceeding one year.")

The same is agreed to

Paragraph 136 is again read, as amended.

The further consideration of paragraph 136 is postponed

New Paragraph 136A is again read. It is moved by Sir Reginald Craddock to leave out paragraph 136A.

The same is agreed to

Paragraphs 137 to 306 are again postponed

Paragraph 307 is again considered

It is moved by the Lord Hardinge of Penshurst Page 170, to leave out paragraph 307 and to insert the following new paragraph:—

("307 One category of pension payment stands in so special a position as to demand separate consideration. We refer to the pensions payable to families of officers, civil and military, the cost of which is met not from the revenues of India but from credits accumulating in the balances of the Government of India from subscriptions paid by the officers themselves. The Government of India are trustees of these credits and the fullest possible consideration should be given to the views of the subscribers and beneficiaries as to the future administration of the trust. A note by the Secretary of State for India which is printed in the Committee's records contains full particulars of these credits and the steps already taken to ascertain the views of subscribers. The note also contains in outline proposals for the consideration of subscribers and pensioners The matters to be decided are technical and complicated; and we hope therefore in consulting subscribers that every effort will be made to put the issues before them in the clearest possible way. We are glad to observe from paragraph 8 of the Note that the Secretary of State hopes that, unless the present financial situation unexpectedly

deteriorates, it will be possible to convert existing rupee credits in India into sterling funds held in this country within quite a short period after the Constitution Act is passed and the wishes of subscribers and pensioners are known. We recommend that this should be done and that action should be taken generally on the lines indicated in the Note ")

The same is agreed to.

New paragraph 307 is again read

The further consideration of paragraph 307 is postponed

Paragraphs 308 to 340 are again postponed

Paragraph 341 is again read.

It is moved by Mr Butler Page 187, lines 6 and 7, to leave out ("provision be made enabling")

The same is agreed to,

Paragraph 341 is again read, as amended

The further consideration of paragraph 341 is postponed

Paragraphs 342 to 365 are again postponed

Paragraph 366 is again considered

The motion of Mr Morgan Jones, Mr. Attlee, Mr Cocks, and the Lord Snell Page 200, line 16, to leave out from ("foundation") to the end of the line is again considered

Objected to

On Question

Contents (4)	Not Contents (16)
Lord Snell	Lord Archbishop of Canterbury.
Mr Attlee	Marquess of Salisbury
Mr Cocks	Marquess of Zetland
Mr. Morgan Jones.	Marquess of Linlithgow
	Marquess of Reading
	Viscount Halifax
	Lord Middleton
	Lord Hardinge of Penshurst
	Lord Rankeillour
	Lord Hutchison of Montrose
	Mr Butler
	Major Cadogan
	Sir Austen Chamberlain
	Sir Reginald Craddock
	Sir Samuel Hoare
	Sir John Wardlaw Milne

The Earl of Derby and the Earl Winterton did not vote

The said amendment is disagreed to

Paragraph 366 is again read.

The further consideration of paragraph 366 is postponed

Paragraph 367 is again read.

Mr. Morgan Jones, Mr. Attlee, Mr Cocks, and the Lord Snell Page 200, line 45, after ("discretion.") to insert ("The Governor, "Deputy Governor and four Directors of the Bank should be selected "by the Governor-General in consultation with his Ministers")

The same is disagreed to

Paragraph 367 is again read

The further consideration of paragraph 367 is postponed.

Paragraphs 368 and 369 are again postponed.

Paragraph 370 is again read.

It is moved by the Marquess of Linlithgow, the Lord Eustace Percy, and Sir John Wardlaw-Milne. Page 202, lines 10 to 14, to leave out sub-section (*f*).

The same is agreed to.

Paragraph 370 is again read, as amended.

The further consideration of paragraph 370 is postponed.

Paragraph 370A is read, as amended and is as follows:—

Disputes between Railway Authority and Indian States Railways.

"370A We attach special importance to the arbitration procedure mentioned above as a means of settling disputes on administrative issues between the Railway Authority and the Administrations of railways owned and worked by an Indian State The Constitution Act should contain adequate provision to ensure reasonable facilities for the State's railway traffic and to protect its system against unfair or uneconomic competition or discrimination in the Federal Legislature We consider that States owning and working a considerable railway system should be able to look to the arbitration machinery which we recommend for adequate protection in such matters On the other hand, if any State is allowed to reserve, as a condition of accession, the right to construct railways in its territory notwithstanding Item (9) of the revised exclusive Federal List their right to do so should be subject to appeal by the Railway Authority to the same tribunal." 13

It is moved by the Marquess of Linlithgow Line 13, to leave out ("their") and to insert ("its")

The same is agreed to

Paragraph 370A is again read, as amended.

The further consideration of paragraph 370A is postponed

Appendix (iv) is again postponed.

Paragraphs 371 to 375 are again postponed.

Paragraph 376 is again read.

It is moved by the Lord Rankeillour. Page 210, line 36, after ("associations") to insert ("whose salary would not be votable and").

The same is agreed to.

Paragraph 376 is again read, as amended

The further consideration of paragraph 376 is postponed.

Paragraphs 377 to 379 are again postponed.

Paragraph 380 is read, as amended and is as follows :—

"380. As the High Commissioner will no doubt continue to serve **Appointment should be made by Governor-General in his discretion.**
2 Provincial Governments as well as the Federal Government it seems to us inappropriate that the appointment should be made by the Governor-General acting solely on the advice of Federal Ministers We recommend accordingly that the appointment of High Commissioner should be made by the Governor-General in his discretion after consultation with his Ministers. It may be that some of the States which accede to the Federation would also find it useful to employ the agency of the High Commissioner for some purposes, and we consider that it should be open to them to do so."

It is moved by Sir Samuel Hoare and Mr. Butler. Line 2, after ("Government") to insert (", and as in any case he will be acting "under the orders of the Governor-General in matters arising out of "the Reserved Departments,").

The same is agreed to.

Paragraph 380 is again read, as amended.

The further consideration of paragraph 380 is postponed.

Paragraph 381 is again postponed.

Paragraph 382 is again read.

It is moved by Mr. Cocks, Mr. Attlee, Mr. Morgan Jones, and the Lord Snell. Page 213, line 6, after ("Federation") to add ("although we consider "that this interval should not be longer than is necessitated by administrative "considerations.")

The same is agreed to.

Paragraph 382 is again read, as amended.

The further consideration of paragraph 382 is postponed.

Paragraphs 383 and 384 are again postponed.

Paragraph 385 is again read.

It is moved by the Lord Rankeillour. Page 214, line 22, to leave out ("Federal") and after ("Court") to insert ("with the same powers in this "sphere as it is proposed to confer on the Federal Court").

The same is agreed to.

Paragraph 385 is again read, as amended.

The further consideration of paragraph 385 is postponed.

Paragraphs 386 and 387 are again postponed.

Paragraph 388 is again read.

It is moved by Sir John Wardlaw-Milne on behalf of the Lord Eustace Percy. Page 216, line 23, to leave out (" part ") and insert (" section ").

The same is agreed to.

Paragraph 388 is again read, as amended.

The further consideration of paragraph 388 is postponed.

Paragraph 389 is again read

It is moved by the Marquess of Linlithgow. Page 216, line 39, to leave out (" 142,000 ") and to insert (" 136,000 ")

The same is agreed to.

It is moved by the Marquess of Linlithgow. Page 216, line 40, after (" other ") to insert (" existing ")

The same is agreed to

It is moved by the Marquess of Linlithgow Page 216 line 42 to leave out (" 49,000 ") and to insert (" 55,000 ") and to leave out (" 13,000 ") and to insert (" 11,000 ")

The same is agreed to

Paragraph 389 is again read as amended.

The further consideration of paragraph 389 is postponed.

Paragraph 390 is again postponed

Paragraph 391 is read as amended, and is as follows :—

Its isolation.

" 391 The steep and densely wooded mountains on the north and
north west of Burma where it marches with Assam, Manipur, and
Bengal cut off access from India, and on the east where its neighbours 3
are the Chinese province of Yunnan in the north, and French Indo
China and Siam in the south, effectively prevent intercourse with
adjacent countries save by a few difficult caravan routes Between 6
continental India and Burma intercourse is and must be wholly by
sea, and Rangoon is 700 miles by sea a forty eight hours' voyage,
from Calcutta, and 1,000 from Madras In these circumstances it is not
surprising that the influence which Burma can exert on Indian political 10
influence and the interest which India generally feels in Burma's 11
affairs are of the slightest, and to this we should add that, Buddhism
being the prevailing religion, caste and communalism are unknown,
though there are certain racial cleavages, and that the women of 14
Burma are regarded socially and politically as on an equality with
men The Burmese language is spoken by the great majority of the
inhabitants, though there are numerous local dialects Of the total
population some 10,000,000 are Burmans, 1,250,000 Karens, and
1,000,000 Shans inhabiting for the most part of the frontier tracts;
and of the non-indigenous races the most numerous are Indians,
who number approximately 1,000,000."

It is moved by Sir John Wardlaw-Milne. Lines 3 to 6, to leave out from (" and ") in line 3, to the end of the sentence in line 6, and to insert (" while on the east, where its neighbours are the Chinese " province of Yunnan in the north and French Indo-China and Siam " in the south, intercourse with adjacent countries is only possible " by means of a few difficult caravan routes.")

The same is agreed to.

It is moved by the Marquess of Zetland. Line 10, to leave out (" influence ") and to insert (" tendencies ").

The same is agreed to.

It is moved by the Marquess of Linlithgow. Lines 11 to 14, to leave out from (" slightest ") in line 11 to the end of the sentence and to insert (" conditions in the two countries are in many respects markedly " different; Buddhism being the prevailing religion in Burma the " difficulties created in India by caste and the potential clash of religious " forces are hardly existent in Burma; but against this must be set the " factor of another form of communalism based on racial cleavages. " Another notable point of difference is that the women of Burma are " regarded, socially and politically, as on an equality with men, to an " extent as yet rarely found in any part of India.")

The same is agreed to.

Paragraph 391 is again read, as amended.

The further consideration of paragraph 391 is postponed.

Paragraphs 392 to 399 are again postponed.

Paragraph 400 is again read.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 222, line 38, to leave out (" 18 ") and to insert (" 20 ").

The same is agreed to.

Paragraph 400 is again read, as amended.

The further consideration of paragraph 400 is postponed.

Paragraphs 401 and 404 are again postponed.

Paragraph 405 is read, as amended, and is as follows :—

" 405. An agreement of this kind embodied in the Constitution Act, even though mutually advantageous to the two countries, must necessarily constitute to some extent an encroachment upon the fiscal liberty which Burma after separation is to enjoy, and which India already enjoys. The encroachment would be less, if the agreement provided full opportunity to both parties to vary details by mutual consent during its currency; but it is in any event desirable that the agreement itself should continue for the shortest period which is compatible with the securing to those concerned in the India-Burma trade of a reasonable measure of certainty as to the immediate future. One possible course would be to impose the agreement for an undefined period subject to denunciation by either country at reasonable notice, say twelve months. If the agreement proved to be congenial to the needs of both, such an arrangement might promise the greatest prospect of stability; but there is a risk that national *amour propre* might lead one or both of the new Governments to denounce it as soon as it had the power to do so, with the result that the agreement might last for little more than the period of notice. Another course, advocated by the Burma Chamber of Commerce, would be to enact that the agreement should continue until replaced by another concluded between the two new Governments. This, however, would give one Government, if it found that it enjoyed an advantage at the expense of the other, the option of retaining that advantage indefinitely; nor do we think that it would be fair to impose upon the future Government of Burma in the period immediately following

Period during which a Trade Convention should continue in force.

separation the heavy burden of negotiating an intricate Trade Agreement. In our opinion, the two Constitution Acts should state the minimum 26
period for which the Agreement is to be binding on India and Burma and also make it clear that after the termination of that period it should be 28
open to, but not incumbent on, either side to give notice of its intention to determine it; the period of notice, which might conveniently perhaps 30
be twelve months, should also be stated in the Act. We do not ourselves 31
make any more precise recommendation as to what the minimum period 32
of the Agreement's validity should be than that it should be less than 33
one year, for we think it would be far best that the actual period should, 34
like the content of the Agreement, be fixed by mutual accommodation between India and Burma in the course of the negotiations. If, however, they should fail to reach agreement on this point we think th[illegible] Majesty's Government who would no doubt be apprised of the differing views held, should insert a specific period in the Bills laid before Parliament. We think also that the agreement should contain provisions for the mutual adjustment of details from time to time during its currency, where both parties desired such adjustments to be made."

It is moved by Sir Samuel Hoare and Mr. Butler. Line 26, to leave out ("two Constitution Acts") and to insert ("legislative provisions "for both India and Burma").

The same is agreed to.

It is moved by Sir Austen Chamberlain on behalf of the Lord Eustace Percy. Lines 28 to 30, to leave out from ("period") in line 28 to ("the") in line 30 and to insert ("which must elapse before either party "to the agreement can give notice to terminate it, and also the length "of").

The same is agreed to.

It is moved by Sir Austen Chamberlain on behalf of the Lord Eustace Percy. Line 31, to leave out ("should also be stated in the Act.").

The same is agreed to.

It is moved by the Lord Rankeillour. Line 31, after ("months") to insert ("they should also provide for the replacement of the agreement "by an award to be made by an Imperial Commissioner should the two "Governments differ as to the terms on which the agreement should be "renewed").

The same is disagreed to.

It is moved by the Lord Eustace Percy. Lines 32 and 33, to leave out ("minimum period of the Agreement's validity") and to insert ("first "period").

The same is agreed to.

It is moved by the Lord Eustace Percy. Line 34, after ("should") to insert ("not").

The same is agreed to.

Paragraph 405 is again read, as amended.

The further consideration of paragraph 405 is postponed.

Paragraph 406 is again read.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 225, lines 34 and 35, to leave out from ("the") in line 34 to ("in") in line 35 and to insert ("Act "should contain provision for an Order in Council empowering the Governor-"General of India and the Governor of Burma respectively").

The same is agreed to.

Paragraph 406 is again read, as amended.

The further consideration of paragraph 406 is postponed.

Paragraph 407 is again read.

It is moved by the Marquess of Linlithgow. Page 226, lines 22 to 24, to leave out from ("be") in line 22 to ("for") in line 24 and to insert ("made statutorily binding on both Governments").

The same is agreed to.

Paragraph 407 is again read, as amended.

The further consideration of paragraph 407 is postponed.

Paragraphs 408 to 411 are again postponed.

Paragraph 415 is read, as amended, and is as follows :—

"415. The Council of Ministers will have a constitutional right to tender advice to the Governor in the exercise of the powers conferred upon him by the Constitution Act, other than powers connected with certain Departments which will be reserved for the Governor's own direction and control and matters left by the Constitution Act to the Governor's own discretion ; but the Governor will be declared to have a special responsibility in respect of certain matters and where they are involved will be free to act according to his own judgment. The matters which it is proposed shall be reserved to the Governor's own direction and control, are Defence, External Affairs, Ecclesiastical Affairs, the affairs of certain Excluded Areas, and monetary policy, currency and coinage. With these we deal later, but we point out that they do not include law and order, which will, therefore, fall within the ministerial sphere, as it will in the Indian Provinces, if our recommendations are accepted. In general the same considerations apply in Burma, if separated, as apply in the other Provinces of British India. But there are certain special circumstances which we think it right to mention. On the one hand Terrorism of the Bengal type is practically unknown among the Burman people, and communal strife arising from strong religious antagonisms is rare and unimportant. To this extent the problem is less difficult than in other Provinces. On the other hand Burma exhibits racial rivalries which on occasion have developed into violent riots between one community and another, and serious crime—especially crimes of violence—appears to be more rife in Burma than in India ; in proportion to population the annual record of dacoities, murders and cattle thefts is very high. This, no doubt, is due, in part, to the fact that barely 50 years have elapsed since, with the conquest of Upper Burma, British authority was established throughout the Province and British ideas of Law and Order began to be instilled into the whole countryside. To this fact and perhaps also in some degree to the Burman temperament may, we think, be attributed the organised resistance to authority, amounting to armed rebellion and guerilla warfare, which has at times, even within the past few years, affected a large number of districts and which, owing to the difficult nature of the country and the lack of good communications, has proved very troublesome to put down. Nevertheless we are of opinion that the responsibility for law and order ought in future to rest on Ministers in Burma no less than in India and for substantially the same reasons. At the same time, bearing in mind the special features of the problem that we have described, we think it essential that the Governor of Burma should have powers additional to the powers flowing from his special responsibility for the prevention of any grave menace to the peace and tranquillity of Burma as proposed in the Burma White Paper. He, like the Governors of Indian Provinces, should be vested with the statutory powers which we have recommended in their case to equip- Law and Order.

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them against attempts to overthrow by violence the Government established by law. Further, conditions in Burma manifestly necessitate the maintenance of an efficient and highly disciplined police force; and we are of opinion that the recommendations which we made in an earlier passage[a] for the protection of the police forces in Indian Provinces by protecting the statutes and rules which govern their internal organisation and discipline should be adopted in Burma also."

It is moved by the Lord Eustace Percy. Lines 43 to 46, to leave out from the beginning of line 43 to the end of the sentence and to insert (" He should be given the same statutory powers against attempts to " overthrow by violence the Government established by law as we have " recommended should be vested in the Governors of Indian Provinces".)

The same is agreed to.

It is moved by the Lord Eustace Percy. Line 50, to leave out (" protecting ") and to insert (" safeguarding ").

The same is agreed to.

Paragraph 415 is again read, as amended.

The further consideration of paragraph 415 is postponed.

Paragraph 416 is again read.

It is moved by the Marquess of Linlithgow. Page 230, line 12, to leave out (" The latter service requires ") and to insert (" These services require ").

The same is agreed to.

It is moved by the Marquess of Linlithgow. Page 230, line 13, to leave out (" is ") and to insert (" are ").

The same is agreed to.

Paragraph 416 is again read, as amended.

The further consideration of paragraph 416 is postponed.

Paragraphs 417 to 421 are again postponed.

Paragraph 422 is again read.

It is moved by the Marquess of Linlithgow. Page 232, line 41, after (" that ") to insert (" the control of ").

The same is agreed to.

Paragraph 422 is again read, as amended.

The further consideration of paragraph 422 is postponed.

Paragraphs 423 to 425 are again postponed.

Paragraph 426 is again read.

It is moved by the Lord Rankeillour. Page 234, line 29, to leave out (" unless it is sooner dissolved ").

The amendment, by leave of the Committee, is withdrawn.

Paragraph 426 is again read.

The further consideration of paragraph 426 is postponed.

Paragraph 427 is again read.

It is moved by the Marquess of Linlithgow. Page 235, line 5, to leave out (" European ").

The same is agreed to.

It is moved by the Marquess of Linlithgow. Page 235, line 6, after the first (" Commerce ") to insert (" (European) ").

The same is agreed to.



It is moved by the Marquess of Linlithgow. Page 235, line 15, after ("that") to insert (", as we have already observed,")

The same is agreed to.

It is moved by the Marquess of Linlithgow. Page 235, line 16, to leave out (" as we have already observed,").

The same is agreed to.

Paragraph 427 is again read as amended.

The further consideration of paragraph 427 is postponed.

Paragraph 428 is again read.

It is moved by Mr. Cocks, Mr. Attlee, Mr. Morgan Jones and the Lord Snell. Page 235, lines 46 to 49, to leave out after ("opinion") in line 46, to the end of the paragraph and to insert ("that as the Chambers of Commerce "and Trades Association are to be represented by nine special seats, and "bearing in mind the statement in the Secretary of State's Memorandum "that 'four Labour constituencies only may appear short measure' two "of these seats should be assigned to Labour, one to Burman labour and one "to Indian, thus bringing up the Labour representation to six. The total "number of the House of Representatives should therefore be 132 instead "of 133").

Objected to.

On Question —

Contents (6).	Not Contents (18).
Lord Archbishop of Canterbury.	Marquess of Salisbury.
Marquess of Reading.	Marquess of Zetland.
Lord Snell.	Marquess of Linlithgow.
Mr. Attlee.	Earl of Derby.
Mr. Cocks.	Earl Peel.
Mr. Morgan Jones.	Viscount Halifax.
	Lord Middleton.
	Lord Hardinge of Penshurst.
	Lord Rankeillour.
	Lord Hutchison of Montrose.
	Mr. Butler.
	Major Cadogan.
	Sir Austen Chamberlain.
	Sir Reginald Craddock.
	Sir Samuel Hoare.
	Lord Eustace Percy.
	Sir John Wardlaw Milne.
	Earl Winterton.

The said amendment is disagreed to.

Paragraph 428 is again read.

The further consideration of paragraph 428 is postponed.

Paragraph 429 is again read.

It is moved by Mr. Cocks, Mr. Attlee, Mr. Morgan Jones and the Lord Snell. Page 236, line 23, after ("the") to insert ("exceptional").

The same is agreed to.

It is moved by Mr. Cocks, Mr. Attlee, Mr. Morgan Jones, and the Lord Snell. Page 236, lines 24 to 34, to leave out from ("Burma") in line 23 to the end of the paragraph and to insert ("and to the fact that they own

property jointly with their husbands and are regarded as equal partners in domestic, economic, and political matters, we are glad to give favourable consideration to this suggestion. We are informed that the inclusion of a wifehood franchise will increase the number of women voters to a figure approximating to 2,000,000 and we have no doubt that this will present considerable administrative difficulties. Nevertheless, we feel that special efforts should be made to overcome those difficulties and that in no case should they be accepted as a reason for denying to the women of Burma in the matter of the franchise that equal status with men which they have enjoyed in other respects for many centuries.")

Objected to.

On Question :—

Contents (8).	Not Contents (18).
Lord Archbishop of Canterbury.	Marquess of Salisbury.
Lord Hardinge of Penshurst.	Marquess of Zetland.
Lord Snell.	Marquess of Linlithgow.
Lord Hutchison of Montrose.	Marquess of Reading.
Mr. Attlee.	Earl of Derby.
Mr. Cocks.	Earl Peel.
Mr. Morgan Jones.	Viscount Halifax.
Earl Winterton.	Lord Middleton.
	Lord Rankeillour.
	Mr. Butler.
	Major Cadogan.
	Sir Austen Chamberlain.
	Sir Reginald Craddock.
	Mr. Davidson.
	Sir Samuel Hoare.
	Sir Joseph Nall.
	Lord Eustace Percy.
	Sir John Wardlaw-Milne.

The said amendment is disagreed to.

It is moved by the Lord Eustace Percy. Page 236, lines 26 to 34, to leave out from (" the ") in line 26 to the end of the paragraph and to insert (" total " electorate by over 40 per cent. and we hesitate to recommend so near an " approach to adult franchise at present.")

Objected to.

On Question :—

Contents (10).	Not Contents (9).
Marquess of Linlithgow.	Lord Archbishop of Canterbury.
Earl Peel.	Marquess of Salisbury.
Viscount Halifax.	Marquess of Zetland.
Lord Hardinge of Penshurst.	Marquess of Reading.
Lord Hutchison of Montrose.	Earl of Derby.
Mr. Butler.	Lord Middleton.
Sir Austen Chamberlain.	Major Cadogan.
Mr. Davidson.	Sir Reginald Craddock.
Lord Eustace Percy.	Sir Joseph Nall.
Sir John Wardlaw-Milne.	

The Lord Snell, The Lord Rankeillour, Mr. Attlee, Mr. Cocks, Sir Samuel Hoare and Mr. Morgan Jones did not vote.

The said amendment is agreed to.

Paragraph 429 is again read, as amended.

The further consideration of paragraph 429 is postponed.

Paragraphs 430 to 437 are again postponed.

Paragraph 438 is again read.

It is moved by Sir Samuel Hoare and Mr. Butler. Page 241, line 31, after ("and") to insert ("we consider that the recommendations which we have "made in respect of the Public Services in India should similarly apply "*mutatis mutandis* in respect of Burma. In the following paragraphs, "therefore,")

The same is agreed to.

Paragraph 438 is again read, as amended.

The further consideration of paragraph 438 is postponed.

Paragraphs 438A and 439 are again postponed.

Paragraph 440 is again read.

It is moved by the Marquess of Linlithgow. Page 241, line 44, after ("that") to insert ("as regards the Railway Services").

The same is agreed to.

Paragraph 440 is again read, as amended.

The further consideration of paragraph 440 is postponed.

Paragraphs 441 to 442A are again postponed.

Paragraph 443 is read, as amended, and is as follows:—

"443. In so far as this is a matter between the United Kingdom and Burma, the proposals in the Burma White Paper, supplemented by a subsequent Memorandum submitted to us by the Secretary of State, are the same as those in the case of India, and we approve them subject to the general application to the case of Burma, *mutatis mutandis*, of the modifications which we have made in the corresponding proposals originally submitted to us in relation to India. In particular we recommend that there should be imposed on the Governor of Burma an additional responsibility corresponding to that which we have recommended should be imposed on the Governor-General of India for the prevention of dis-
11 criminatory or penal treatment of imports from the United Kingdom, we may refer to what we have said upon the subject in an earlier part of our
13 Report. The Burma White Paper and the Secretary of State's Memorandum, however, deal also with the question of discrimination as between India and Burma after the separation of the two countries, and this raises certain problems of its own." **Discrimination as between Burma and India. Existing restrictions.**

It is moved by the Marquess of Linlithgow. Lines 11 to 13, to leave out from ("Kingdom") in line 11 to the end of the sentence.

The same is agreed to.

Paragraph 443 is again read, as amended.

The further consideration of paragraph 443 is postponed.

Paragraph 444 is again postponed.

Paragraph 445 is read, as amended, and is as follows —

"445 There are certain legal restrictions in force at present on the right of persons of non Burman birth or domicile to compete for certain public appointments or to qualify for the exercise of certain professions, and it is right that these should be retained As regards the future, the power of the Burma Legislature to impose conditions or restrictions on entry into Burma should prove a sufficient safeguard Subject to the above modifications, we are of opinion that the question of discrimination as between India and Burma should be dealt with on the same lines as that of discrimination between India and the United Kingdom But the separation of Burma from India will create a special category of persons in Burma of United Kingdom domicile for whose protection in India provision will we think, require to be made in the Constitution Act for India rather than that for 12
Burma We refer to the case of companies established already in Burma with United Kingdom personnel and United Kingdom capital Such Companies have established themselves in Burma as a Province of British India and we think that it would evidently be inequitable if after the separation of Burma they are in a less favourable position in respect of their operations in British India than a Company established at the same time and under the same conditions in say, Bombay or Bengal

It is moved by the Marquess of Linlithgow Line 1, to leave out ("Act for") and to insert ("of")

The same is agreed to

It is moved by the Marquess of Linlithgow Line 12, to leave out the second ("for") and to insert ("of")

The same is agreed to

Paragraph 445 is again read, as amended

The further consideration of paragraph 445 is postponed.

Paragraph 446 is again read

It is moved by Sir Samuel Hoare and Mr Butler Page 244 line 12 to leave out ("practise") and to insert ("become enrolled on the Medical Register").

The same is agreed to

It is moved by Sir Samuel Hoare and Mr Butler Page 244, line 29, to leave out ("unlikely that") and to insert ("uncertain when")

The same is agreed to

It is moved by Sir Samuel Hoare and Mr Butler Page 244, line 30, to leave out ("in the near future")

The same is agreed to

Paragraph 446 is again read, as amended

The further consideration of paragraph 446 is postponed

Paragraph 447 is again read.

It is moved by Sir Samuel Hoare and Mr Butler Page 244, line 41, to page 245, line 7 to leave out from ("that") in line 41, page 245, to the end of the paragraph and to insert ("statutory provision should be made to secure "to holders of United Kingdom and Indian Medical qualifications which are "recognised by the General Medical Council the right to be enrolled on the "Medical Register in Burma. The precise form which the provision should

"take will require examination but we think that reciprocal arrangements "should be made by which the medical degrees granted by Rangoon "University, if and when recognised by the Indian Medical Council and the "General Medical Council, would receive a similar measure of protection in "India and in the United Kingdom to that which we think suitable for "United Kingdom and Indian qualifications in Burma.").

The same is agreed to.

Paragraph 447 is again read, as amended.

The further consideration of paragraph 447 is postponed.

Paragraphs 448 and 449 are again postponed.

Paragraph 450 is read, as amended, and is as follows :—

Constituent powers, etc.

"450. The recommendations which we have made on these four subjects in the case of India will, we think, be equally appropriate, *mutatis mutandis*, in the case of Burma. But as Burma after separation will be a unitary State, and will not be within the jurisdiction of the Indian Federal Court, we think that an appeal should lie as of right to the Privy Council from the High Court in any case involving the interpretation of the Constitution Act. We take this opportunity to record our opinion that the recommendations which we have made elsewhere for the prescription of English as the language of the High Courts in India and the use of English for the conduct of business in the Indian Legislatures should apply equally to the case of the High Court and the Legislature in Burma. As regards audit arrangements, it is evident that Burma will require after separation her own audit system. As regards Home Audit, however it may well be found that the amount of Burma business transacted in London will not be sufficient to justify the appointment of a separate officer as Home Auditor, and in that event we think that some arrangement should be made whereby the Auditor for Indian Home Accounts should also act in an agency capacity for Burma. We think that liberty should be afforded in the Act for the new Burma Government to establish a High Commissioner of its own in London if it finds it necessary to do so; but we foresee the possibility that the amount of business requiring to be transacted in London on behalf of the Government of Burma may be so small as not to justify, at the outset the expense of establishing such an office; and we think that it might be well to examine the possibility of the functions of such an official being undertaken by some other authority on an agency basis for the time being."

It is moved by the Lord Rankeillour. Line 13, after ("system") to insert ("similar to that in India").

The amendment, by leave of the Committee, is withdrawn.

Paragraph 450 is again read.

The further consideration of paragraph 450 is postponed.

Paragraph 451 is read, as amended, and is as follows :—

The Secretary of State.

("451. We have recommended that the corporation known as the Secretary of State in Council should cease to exist after the establishment of Provincial Autonomy in India, and in that event the Secretary of State in Council would equally cease to exercise any functions in relation to Burma. It follows that there should be a transference of the rights, liabilities and obligations incurred by the Secretary of State in Council

in respect of Burma to the appropriate authority to be established in Burma, corresponding to the transference to the Federal or Provincial Governments in India which in an earlier passage we have suggested should be provided for in the Indian Constitution The question has been raised whether the Secretary of State for India should become in future the Secretary of State for India and Burma The Joint Memorandum of the Burman Delegates suggests that there should be a separate Secretary of State for Burma, or else that the Secretary of State for the Dominions should hold the office We are disposed to think that the Secretary of State for India should in future hold two separate portfolios one as Secretary of State for India and one as Secretary of State for Burma, and we are of opinion that, though the two offices would be legally distinct, it is most desirable on practical grounds that they should be held by the same person There is we are convinced, no real danger that the interests of Burma would be unfairly subordinated to those of India in the hands of a Secretary of State holding the double office ")

It is moved by Sir Samuel Hoare and Mr Butler Lines 1 to 5, to leave out from the beginning of the paragraph to (" It ") in line 5 and to insert (" The establishment of responsible government in Burma " necessarily implies, as in the case of India, the disappearance in relation " to Burma of the corporation known as the Secretary of State in " Council ")

The same is agreed to

Paragraph 151 is again read as amended

The further consideration of paragraph 151 is postponed.

Paragraphs 152 and 153 are again postponed

Ordered that the Committee be adjourned till to morrow at Eleven o'clock

Die Veneris 12° Octobris 1934

Present :

LORD ARCHBISHOP OF CANTERBURY.
LORD CHANCELLOR.
MARQUESS OF SALISBURY.
MARQUESS OF ZETLAND.
MARQUESS OF LINLITHGOW.
MARQUESS OF READING.
EARL OF DERBY.
EARL OF LYTTON.
EARL PEEL.
VISCOUNT HALIFAX.
LORD MIDDLETON.
LORD HARDINGE OF PENSHURST.
LORD SNELL.
LORD RANKEILLOUR.
LORD HUTCHISON OF MONTROSE.

MR. ATTLEE.
MR. BUTLER.
MAJOR CADOGAN.
SIR AUSTEN CHAMBERLAIN.
MR. COCKS.
SIR REGINALD CRADDOCK.
MR. DAVIDSON.
MR. FOOT.
SIR SAMUEL HOARE.
MR. MORGAN JONES.
SIR JOSEPH NALL.
LORD EUSTACE PERCY.
SIR JOHN WARDLAW-MILNE.

THE MARQUESS OF LINLITHGOW in the Chair.

The Order of Adjournment is read.

The Proceedings of yesterday are read.

The course of Proceedings is again considered.

The Report, as amended, is again considered.

It is moved by the Marquess of Linlithgow that paragraphs 1 to 119[1] inclusive, as amended, be agreed to.

The same are agreed to.

It is moved by the Marquess of Linlithgow that paragraph 120[2] as amended, be agreed to.

Objected to.

On Question :—

Contents (17).	Not Contents (7).
Lord Archbishop of Canterbury.	Marquess of Salisbury.
Lord Chancellor.	Marquess of Zetland.
Marquess of Linlithgow.	Earl of Lytton.
Marquess of Reading.	Lord Rankeillour.
Earl of Derby.	Lord Middleton.
Earl Peel.	Sir Reginald Craddock.
Viscount Halifax.	Sir Joseph Nall.

[1] Paragraphs 1 to 119 in the Report as amended correspond 1—120 in the Draft Report

[2] Paragraph 120 in the Report as amended corresponds to 121 in the Draft Report.

Contents (17)—contd.	Not contents (7) contd.
Lord Hardinge of Penshurst.	
Lord Hutchison of Montrose.	
Mr Butler	
Major Cadogan	
Sir Austen Chamberlain	
Mr Davidson	
Mr Foot.	
Sir Samuel Hoare	
Lord Eustace Percy.	
Sir John Wardlaw Milne	

The Lord Snell, Mr Attlee, Mr. Cocks, and Mr. Morgan Jones did not vote.

The same is agreed to

It is moved by the Marquess of Linlithgow that paragraphs 121[1] to 150[2] inclusive, as amended, be agreed to

The same are agreed to.

It is moved by the Marquess of Linlithgow that the Appendix (1), as amended be agreed to

The same is agreed to

It is moved by the Marquess of Linlithgow that paragraphs 151 to 199[3] inclusive, as amended, be agreed to.

Objected to

On Question —

Contents (19).	Not Contents (5).
Lord Archbishop of Canterbury.	Marquess of Salisbury
Lord Chancellor	Lord Rankeillour
Marquess of Zetland	Lord Middleton
Marquess of Linlithgow.	Sir Reginald Craddock.
Marquess of Reading	Sir Joseph Nall
Earl of Derby.	
Earl of Lytton	
Earl Peel	
Viscount Halifax.	
Lord Hardinge of Penshurst.	
Lord Hutchison of Montrose.	
Mr Butler	
Major Cadogan.	
Sir Austen Chamberlain	
Mr Davidson.	
Mr Foot	
Sir Samuel Hoare	
Lord Eustace Percy.	
Sir John Wardlaw Milne.	

The Lord Snell, Mr Attlee, Mr. Cocks, and Mr. Morgan Jones did not vote.

The same are agreed to

[1] Paragraph 121 in the published Report as amended was inserted after paragraph 121 in the Draft Report (vide Vol I, Part II Proceedings, pp 459 460)

[2] Paragraphs 122 to 150 in the Report as amended correspond to 122—147 in the Draft Report

[3] Paragraphs 151 to 199 in the Report as amended correspond to 148—200 in the Draft Report

It is moved by the Marquess of Linlithgow that paragraph 200[1] as amended, be agreed to.

Objected to.

On Question:—

Contents (21).

Lord Chancellor.
Marquess of Salisbury.
Marquess of Zetland.
Marquess of Linlithgow.
Earl of Derby.
Earl of Lytton.
Viscount Halifax.
Lord Middleton.
Lord Hardinge of Penshurst.
Lord Rankeillour.
Lord Hutchison of Montrose.
Mr. Attlee.
Mr Butler.
Major Cadogan.
Sir Austen Chamberlain.
Sir Reginald Craddock.
Mr Davidson.
Sir Samuel Hoare.
Sir Joseph Nall.
Lord Eustace Percy.
Sir John Wardlaw Milne.

Not Contents (6).

Lord Archbishop of Canterbury.
Marquess of Reading.
Lord Snell.
Mr. Cocks.
Mr. Foot.
Mr. Morgan Jones.

The Earl Peel did not vote.

The same is agreed to.

It is moved by the Marquess of Linlithgow that paragraphs 201 to 273[1] inclusive, as amended, be agreed to.

Objected to.

On Question:—

Contents (19).

Lord Archbishop of Canterbury
Lord Chancellor
Marquess of Zetland.
Marquess of Linlithgow.
Marquess of Reading
Earl of Derby.
Earl of Lytton
Earl Peel
Viscount Halifax.
Lord Hardinge of Penshurst.
Lord Hutchison of Montrose.
Mr Butler.
Major Cadogan.
Sir Austen Chamberlain.
Mr. Davidson.
Mr. Foot.
Sir Samuel Hoare.
Lord Eustace Percy.
Sir John Wardlaw-Milne.

Not Contents (5).

Marquess of Salisbury.
Lord Rankeillour
Lord Middleton
Sir Reginald Craddock.
Sir Joseph Nall

The Lord Snell, Mr. Attlee, Mr. Cocks, and Mr. Morgan Jones did not vote.

The same are agreed to.

[1] Paragraphs 200—273 in the Report as amended correspond to 201—268 in the Draft Report.

It is moved by the Marquess of Linlithgow that paragraphs 274 to 482[1] inclusive, as amended, be agreed to.

The same is agreed to.

It is moved by the Marquess of Linlithgow that the Report, as amended, be agreed to

Objected to.

On Question :—

Contents (19).

Lord Archbishop of Canterbury.
Lord Chancellor.
Marquess of Zetland.
Marquess of Linlithgow.
Marquess of Reading.
Earl of Derby.
Earl of Lytton.
Earl Peel.
Viscount Halifax
Lord Hardinge of Penshurst.
Lord Hutchison of Montrose.
Mr. Butler
Major Cadogan
Sir Austen Chamberlain
Mr Davidson.
Mr. Foot
Sir Samuel Hoare
Lord Eustace Percy
Sir John Wardlaw-Milne.

Not Contents (9).

Marquess of Salisbury.
Lord Snell.
Lord Rankeillour
Lord Middleton.
Mr Attlee
Mr. Cocks
Sir Reginald Craddock.
Mr Morgan Jones.
Sir Joseph Nall.

The same is agreed to

The Secretary of State for India is heard to request that the following papers be printed and be laid before both Houses of Parliament as Record C 1.[2] :—

I —Memorandum by the Secretary of State for India on the Action contemplated in relation to Family Pension Funds

II —Government of India, Home Department, Resolution, dated 4th July, 1934

III —A Note by the Secretary of State for India on Terrorism in India.

IV.—Questions asked by the Marquess of Salisbury on the position of the States in the Federal Finance Scheme of the White Paper, and replies thereto by the Secretary of State for India.

V.—Memorandum by the Secretary of State for India on the Federal Legislature.

VI.—Letter from the Secretary of State for India to the Chairman on the proposed boundaries for Orissa.

[1] Paragraphs 274—482 in the Report, as amended, correspond to 269—453 in the Draft Report.
[2] *Vide* Volume II (Session 1933-34), Records.

The following members of the Committee are heard to request that their memoranda be printed and be laid before both Houses of Parliament as Record C 2.[1]

I.—The Earl of Derby, the Marquess of Zetland and Sir Austen Chamberlain. Memorandum on direct *versus* indirect election.

II.—The Lord Rankeillour—

(*a*) Memorandum on the relations of the two Houses of the Federal Legislature in regard to Supply.

(*b*) Memorandum on the Courts in India.

(*c*) Memorandum on special powers in relation to Defence.

III.—The Earl of Derby and Sir Joseph Nall.

Memorandum on Commercial Discrimination.

IV.—Mr. C. R. Att'ee.

Memorandum on Responsibility at the Centre.

V.—The Lord Hardinge of Penshurst.

Memorandum on the Anglo-Indian Community.

The Secretary of State for India is heard to request that the following papers be printed and be laid before both Houses of Parliament as Record C 3.[1]:—

Consultations on Irrigation and Forestry.

1. Irrigation—

I.—Memorandum by Sir Raymond Hadow, C.I.E., A.M.Inst.C.E.

II.—Notes for consultation with Committee by Mr. (now Sir) C. T. Mullings, C.S.I

III.—Consultation between the Committee and Sir Raymond H. dow and Mr. (now Sir) C. T Mull ngs.

2. Forestry—

I.—Memorandum by Sir Alexand r Rodger, O.B.E.

II.—Consultation between the Committee and Sir Alexan ler Rodger.

Ordered that the d cision whether or not to publish the above papers as Rec rds be postponed until Wednesday, the 31st Octob r.

It is moved that the Lord in the Chair and Sir Austen Chamberlain do move the following Resolution in the House of Lords and in the House of Commons respectively :—

"That it is desirable that the publicat on of the Report and Proceedings of the Joint Select Committee on Indian Constitutional Reforms, an l f s ch further Records as the Committee shall lay upon the Tables of both Houses, shall take place simultaneously in Great Britain and in India and that copies printed by His Majesty's Stationery Office be published in India at the same time that they are published in this country."

The same is agreed to, and ordered accordingly.

[1] *Vide* Volume II (Session 1933-34) Records.

Ordered, that the Committee be adjourned until Wednesday, the 31st October at midday, in order that they may meet again to direct that the Lord in the Chair do make the Report to the House of Lords and that he do lay the Proceedings and certain further Records upon the Table of the House of Lords, and that Sir Austen Chamberlain be directed to do likewise in the House of Commons

KEY TO AMENDMENTS AND TO NEW PARAGRAPHS ADDED TO THE ORIGINAL DRAFT REPORT

Number of paragraph in original Draft Report. (V I, Part II)	Number of new or alternative paragraph inserted into original Draft Report during consideration.	Marginal Note to paragraph in Report as finally published. (Vol I Part I)	Pages of Proceedings on which amendments will be found (Vol I, Part II)	Number of paragraph in Report as finally published. (Vol. I, Part I.)
1 to 42 were read but never considered.			470	
		New Alternative paragraphs 1 to 42B were considered in lieu of the original paragraphs 1 to 42, and will be found printed *in extenso* on pp 470 to 491 of the Proceedings		
	1	The Statutory Commission's survey	523	1
	2	The peoples of India	498, 517, 523 *498*	2
	3	The Indian States	498 – 9, 524	3
	4	British India	524	4
	5	Features of present constitution	499	5
	6	The British achievement	499 524 *524*	6
	7	The Mogul Empire	499, 525. *525*	7
	8	The post Mogul period	499	8
	9	Restoration of peace and order	500, 525 *525, 526.*[1]	9

[1] The Committee divided

Pages of Proceedings on which amendments to paragraphs were agreed to are shown in Roman figures.

Pages of Proceedings on which amendments to paragraphs were not agreed to or postponed are shown in *Italic* figures.

Number of paragraph in original Draft Report (Vo. I, Part II.)	Number of new or alternative paragraph inserted into original Draft Report during consideration	Marginal Note to paragraph in Report as finally published (Vol I Part I)	Pages of Proceedings on which amendments will be found (Vol. I, Part II)	Number of paragraph in Report as finally published. (Vol. I, Part I)
	10	Influence of British constitutional ideas	504, 526 *504 5*	10
	10A–10B	—	*500 504* [1,2]	—
	11	Reality of Indian political aspirations	505 526 7	11
	12	The preamble to the Act of 1919	505, 527 *527* [1]	12
	13	Constitutional theory and practice	505 528	
15		Constitutional development should be evolutionary	528	15
	17	Abolition of dyarchy approved.	505 528	17
	18	Responsible government and social legislation	505 6	18
	19	Responsible government and the enforcement of law and order [3]	506 *528*	19
	20	British conception of parliamentary government	506 7, 529 30 *507*	20
	21	Nature and objects of safeguards [3]	530	21
22		Need for flexibility	*530*	22
23		for a strong Executive	601	23
	24	for an efficient administration	507 530	24

[1] The Committee divided.
[2] These paragraphs were not inserted
[3] This marginal note has been changed since the paragraph was first laid before the Joint Committee

Pages of Proceedings on which amendments to paragraphs were agreed to are shown in Roman figures.

Pages of Proceedings on which amendments to paragraphs were not agreed to or postponed are shown in *Italic* figures

Number of paragraph in original Draft Report. (Vol. I, Part II.)	Number of new or alternative paragraph inserted into original Draft Report during consideration.	Marginal Note to paragraph in Report as finally published. (Vol. I, Part I.)	Pages of Proceedings on which amendments will be found. (Vol. I, Part II.)	Number of paragraph in Report as finally published (Vol. I, Part I.)
	25	and for an impartial authority to hold scales evenly between conflicting interests.	517, 531. *507.*	25
	26	Provincial Autonomy requires a re adjustment at centre	507, 605.	26
	27	Necessity for guarding against centrifugal tendencies	517, 531.	27
	28	The Indian States and an All India Federation.	517 *531*	28
29		Difficulties of a Federation composed of disparate units	531.	29
	30	Unity of India endangered without a constitutional relationship between States and British India	507, 532.	30
	31	Economic ties between States and British India	507, 518 532 605.	31
	37	(2) between Centre and Provinces,	508, 532. *508*	37
	38	(3) in the Central Government itself	518, 533-4.[1] *508.*	38
	39	The Central Legislature and the Army Budget	508-9, 536. *535,[1] 536*[1]	39
40		Governor-General's power of intervention and the dangers of a gradual introduction of responsibility at the centre[2]	536.	40

[1] The Committee divided

[2] This marginal note has been changed since the paragraph was first laid before the Joint Committee.

Pages of Proceedings on which amendments to paragraphs were agreed to are shown in Roman figures.

Pages of Proceedings on which amendments to paragraphs were not agreed to or postponed are shown in *Italic* figures.

Number of paragraph in original Draft Report. (Vol. I, Part II.)	Number of new or alternative paragraph inserted into original Draft Report during consideration.	Marginal Note to paragraph in Report as finally published. (Vol I, Part I)	Pages of Proceedings on which amendments will be found. (Vol I, Part II.)	Number of paragraph in Report as finally published. (Vol. I, Part I.)
	41	Weakness of present Central Government	509.	41
42		Emergency of body of central opinion in United Kingdom and in India	536 7 *536*	42
	42A	Issues with which Parliament is faced	509	43
	42B	Parliament's choice must be resolute and decisive.	*537.*	44
		Note —Paragraphs 43 to 153 will be found *in extenso* in these Proceedings, *vide* pp 64 to 254		
43		The Committee's terms of reference	309	45
44		Arrangement of White Paper	518, 537. *289-301.*[1]	46
45		Burma	*289–301.*[1]	47
46		Definition of Provincial Autonomy.	435, 537 *309.*	48
51		Conflicts of law in concurrent field.	309.	53
52		The residuary legislative power.	537.	54
	53	Difficulty of White Paper proposal [2]	310–11 *310.*[3]	55
	54	Cleavage of opinion in India [2]	311.	56

[1] The Committee divided

[2] This marginal note has been changed since the paragraph was first laid before the Joint Committee.

[3] Amendments laid before Joint Committee and postponed.

Pages of Proceedings on which amendments to paragraphs were agreed to are shown in Roman figures.

Pages of Proceedings on which amendments to paragraphs were not agreed to or postponed are shown in *Italic* figures

Number of paragraph in original Draft Report (Vol. I, Part II.)	Number of new or alternative paragraph inserted into original Draft Report during consideration.	Marginal Note to paragraph in Report as finally published. (Vol. I, Part I.)	Pages of Proceedings on which amendments will be found. (Vol. I, Part II.)	Number of paragraph in Report as finally published (Vol. I, Part I.)
55		The present Governors' Provinces	538	57
—	56A	Separation of Sind from Bombay.	*140 2*[1][2]	—
57	—	Case for separation from Bombay	459, 538	59
58	—	Orissa	4[illegible]5 *311, 412 [illegible]*	60
60	—	Provincial boundaries ..	312, 436, 538. *312, 436*	62
61		Constitution of future Governor's Provinces.	436 *313*	63
—	61A	Constitutional advance in the provincial field	[illegible]13	64
64	—	Executive power and authority to be vested in Governor	[illegible]10	67
68	—	Adaptation to different stages of constitutional development	313, 436 *313, 538.*	71
	71	Relations between Governor and Ministers	313-14, 539, 606	71
72	—	Constitutional implications of Governor's "special responsibilities"	314, 539 *311.*	
73		Parliament and the Instrument of Instructions	436, 539 *314, 539.*	76

[1] The Committee divided.
[2] This paragraph was not inserted.

Pages of Proceedings on which amendments to paragraphs were agreed to are shown in Roman figures

Pages of Proceedings on which amendments to paragraphs were not agreed to or postponed are shown in *Italic* figures.

Number of paragraph in original Draft Report. (Vol. I, Part II.)	Number of new or alternative h inse into original Draft Report during consideration.	Marginal Note to paragraph in Report as finally published. (Vol. I, Part I.)	Pages of Proceedings on which amendments will be found. (Vol. I, Part II.)	Number of in Report as finally published (Vol. I, Part I.)
76		Peace and tranquillity of the Province, Minorities, Public Services.	459. *315, 540.*[1]	79
77		Rights of States, Partially Excluded Areas.	316.	80
79		Special circumstances of North-West Frontier Province and Sind.	316, 541.	82
	79A	A special responsibility for safeguarding financial stability of Province not recommended.	317, 542.	84
82		Difficulties of proposal that Ministers should be elected Members of Legislature.	542.	87
83		Suggested methods for meeting difficulty.	318–19.[1] *318, 543.*	
84		The Governor's choice should not be fettered.	319.[2] *319.*[3]	
85	—	Law and Order	*319–23.*[1] *543.*	89
86	—	Arguments for and against transfer.	323, 543. *319–23.*[1]	90
87		Control of law and order an essential attribute of responsible Government.	323, 414, 544. *319–23.*[1]	91
	88	The Governor's special responsibility.	323, 416, 545. *319–23.*[1]	92
	89	The Police Rules	325–26, 416–17, 545–6. *418.*	93

[1] The Committee divided.
[2] This paragraph has been left out.
[3] Amendments laid before Committee and postponed.

Pages of Proceedings on which amendments to paragraphs were agreed to are shown in Roman figures.

Pages of Proceedings on which amendments to paragraphs were not agreed to or postponed are shown in *Italic* figures.

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—	90	The Special Branch . .	326 417 *326-7,[1] 414.[2]*	94
—	91	Secret intelligence reports .	417-18. *327-8,[3] 415.[3]*	95
—	92	Special powers required for combating terrorism.[4]	418 19,[5] 546. *328,[3] 415,[3] 547.[5]*	96
—	92A	Central Intelligence Bureau .	419 20. *548.*	97
93	—	Relations between Governor and Provincial Administration.	444. *328.*	98
94	-	Importance of the office of G[illegible]	329, 548.	99
95		Rules of Executive business.	329	100
96		The Governor's staff . .	437 548. *329.*	101
97		Influence of Governor on working of responsible government	549.	102
98		Governor's special power	549.	103
99		Legislative powers ..	329 30.	104

[1] Amendment moved and postponed.
[2] Amendment again considered and postponed
[3] Amendments laid before Joint Committee and postponed.
[4] This marginal note has been changed since the paragraph was first laid before the Joint Committee.
[5] The Committee divided.

Pages of Proceedings on which amendments to paragraphs were agreed to are shown in Roman figures.

Pages of Proceedings on which amendments to paragraphs were not agreed to or postponed are shown in *Italic* figures.

Number of paragraph in original Draft Report (Vol I Part II)	Number of new or alternative paragraph inserted into original Draft Report during consideration	Marginal Note to parag in Report as finally published (Vol I Part I)	Pages of Proceedings on which amendments will be found (Vol I Part II.)	Number of paragraph in Report as finally published. (Vol I, Part I)
100		Governor's powers should be exercised independently of Legislature	330[1]	
101		Modification of White Paper proposal suggested	330 519 *330.*	105
102		Ordinances	330 519	106
104		Ordinances made on Ministers advice	330 331	108
105		Governor's powers in event of breakdown of constitution	331 *550*	109
106		Responsibility of Governor to Secretary of State and Parliament	550	110
	107	Vital importance of Executive in India[2]	331 2 551 *331*[3]	111
	108	Difficulties created by communal representation in Ministry[2]	332 551 2 *331*[3] *551-2.*	112
	109	A statutory permanence of tenure for Ministry inconsistent with Parliamentary Government[2]	333 *331*[3]	113
	110	Governor's reserve powers a guarantee for development of responsible Government.	333 4	114
111 and 112			331 4[3][1]	

[1] This paragraph has been left out

[2] This marginal note has been changed since the paragraph was first laid before the Joint Committee

[3] Amendment laid before Joint Committee and postponed.

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Pages of Proceedings on which amendments to paragraphs were not agreed to or postponed are shown in *Italic* figures.

Number of paragraph in original Draft Report. (Vol I, Part II.)	Number of new or alternative paragraph inserted into original Draft Report during consideration.	Marginal Note to paragraph in Report as finally published (Vol I, Part I)	Pages of Proceedings on which amendments will be found. (Vol I, Part II)	Number of paragraph in Report as finally published. (Vol. I, Part I.)
113 to 115			331 1[1]	
116		Solution of the problem lies in Indian hands	335 553 *437 553*	115
118		Second Chambers suggested for Bombay and Madras	336 7 551 *335 6[2] 554[2]*	117
119		The Communal Award and the Poona Pact	337 *337.*	118
120		Effect of the Poona Pact ..	337	119
121		The White Paper proposals accepted.	315 6, 137 8,[2] 551 5 *338 46[2] 555*	120
	121A	Special interests seats .	459 60 *346 7, 555 6[2]*	121
122		Composition of Second Cham-	318, 519 556 7 *347 8[3] 556 7[2]* *518 9*	122
	122A-D.		*348 50[3 4]*	
123		The existing franchise		123
124		The proposals of the Statutory Commission and the Franchise Committee.	557	124
125		The proposals in the White Paper.	350, 558 *558*	125

[1] This paragraph has been left out
[2] The Committee divided.
[3] Amended paragraph further amended.
[4] These paragraphs were not inserted.

Pages of Proceedings on which amendments to paragraphs were agreed to are shown in Roman figures.

Pages of Proceedings on which amendments to paragraphs were not agreed to or postponed are shwon in *Italic* figures.

Number of paragraph in original Draft Report (Vol. I, Part II.)	Number of new or alternative paragraph inserted into original Draft Report during consideration.	Marginal Note to paragraph in Report as finally published (Vol I, Part I.)	Pages of Proceedings on which amendments will be found (Vol I, Part II.)	Number of paragraph in Report as finally published. (Vol. I, Part I.)
128		The proposals administratively practicable	350, 558	128
129		Suggestions for group system of election considered	351 559	129
—	129A	Importance of development of local self governing institutions	559 60	130
130		The White Paper proposals approved with certain modifications	*351 2* [1]	131
131		Women's franchise proposals compared with Franchise Committee's recommendations	560	132
132		Vital importance of women's franchise	352, 138, 560 *352*	134
133		Modifications in White Paper proposals recommended	510, 561 *353 5,*[1] *560* [1]	135
134		Recommendations with regard to women's franchise	355, 439 *355,*[1] *561*	136
135		The educational qualification for men	355-6 *355.*[2]	137
136		Election expenses and corrupt practices, &c	606	138
—	136A	Disqualification of candidates for Provincial Legislature	561 2,[1] 606 [3]	—
138		Powers of Provincial Legislatures.	356, 439	140
139		{Modification of the White Paper proposals recommended / Acts of Parliament extending to India} [4]	439, 563-4 *439, 522, 563*	141 and 142

[1] The Committee divided

[2] Amendment laid before Joint Committee and postponed.

[3] This paragraph has been left out

[4] This marginal note has been changed since the paragraph was first laid before the Joint Committee.

Pages of Proceedings on which amendments to paragraphs were agreed to are shown in Roman figures.

Pages of Proceedings on which amendments to paragraphs were not agreed to or postponed are shown in *Italic* figures.

paragraph in original Draft Report (Vol I, Part II)	inserted into original Draft Ror during consideration	Marginal Note to paragraph ... port as finally pub... (Vol 1, Part I)	Pages of Proceedings on which amendments will be found (Vol 1, Part II)	Number of paragraph in Report as finally ublished. (Vol. I, Part I.)
140		Governor's Assent to Bills[2]	564	143
141		Excluded Areas	356, 564	144
142		Ordinary procedure	519	145
143		Financial procedure	356, 565 *356*	146
145		Non votable heads of expenditure	565 *565*	148
147		Powers of Legislative Councils and conflicts between the two Chambers	357, 565 *357*	150
Appendix (I)		Composition of Provincial Legislative Councils	519, 565 *565*	Appendix (I)
148		Federal Union of States and Provinces	357	151
150		Legal basis of new Federal Constitution	358	153
	150A	Accession of States to Federation a voluntary act	358, 566	154
151		Proposed Scheme a practicable one	358	—
153		Instruments should so far as possible, follow a standard form	*358-9*	156
154		Accession of sufficient number of States a condition precedent to Federation	*359*	157
155		Differentiation of functions of Governor-General and Viceroy	140, 566 *359-60*	158

[1] The Committee divided

[2] This paragraph has been left out.

Pages of Proceedings on which amendments to paragraphs were agreed to are shown in Roman figures

Pages of Proceedings on which amendments to paragraphs were not agreed to or postponed are shown in *Italic* figures

Number of paragraph in oiginal Draft Report. (Vol. I, Part II.)	Number of new or alternative paragraph inserted into original Draft Report during consider-ation.	Marginal Note to paragraph in Report as finally published. (Vol. I Part I.)	Pages of Proceedings on which amend-ments will be found. (Vol. I, Part II.)	Number of in Report as finally published. (Vol. I, Part I.)
159		Its separation from British India recommended	360, 566-7. *360, 566*	162
160		Nature of the Federal Government.[4]	360, 567 *360 1*	163
161		The present Executive in India	567	164
—	*160-227*		*302-8.*[1]	—
162		Executive power and authority of Federation to be vested in Governor-General.	361, 510	165
163		Introduction of responsible government	*114.*	166
164		Special questions in connection with the Federal Executive.	410.	167
166		Responsibility for peace and tranquillity of India	362. *362*[2]	169
167		Responsibility for safeguarding financial stability and credit of the Federation.	567 *362*	170
168		Responsibility for protecting the rights of Indian States	363	171
169		Selection of Ministers .	363.	
170		The Reserved Departments and the Governor-General's Counsellors.	567. *363-4*	172

[1] These alternative paragraphs were not inserted
[2] The Committee divided.
[3] This paragraph has been left out.
[4] This marginal note has been changed since the paragraph was first laid before the Joint Committee.

Pages of Proceedings on which amendments to paragraphs were agreed to are shown in Roman figures.

Pages of Proceedings on which amendments to paragraphs were not agreed to or postponed are shown in *Italic* figures.

Number of paragraph in original Draft Report. (Vol. I, Part II)	Number of new or alternative paragraph inserted into original Draft Report during consideration	Marginal Note to paragraph in Report as finally published. (Vol. I, Part I.)	Pages of Proceedings on which amendments will be found. (Vol. I, Part II.)	Number of paragraph in Report as finally published. (Vol I, Part I.)
171		The Statutory Commission on the Army in India	*364-5.*[1]	173
172		The Commission's recommendation	365-6	174
173		Relations between Department of Defence and other Departments	366, 568 *568*	175
174		Co operation essential	460 511, 569 *366*	176
	174A		*460*[2]	-
175		Suggestions of British Indian delegation	569 *366*	177
	175A	Employment of Indian troops outside India	366 8[1] *570*,[1]	178
176		Indianization	*369*	179
177		The practical difficulties	*369*	180
178		Further development of Indianization necessary but a time limit impracticable	*369*	181
180		The Commander in Chief	369 70	183
181		External Affairs	571 *370*	184
183		Limit for future ecclesiastical expenditure suggested	571 *370 1*	186
184		Minister and Counsellors	371.	187

[1] The Committee divided.
[2] Paragraph not inserted

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Number of paragraph in original Draft Report. (Vol I, Part II.)	Number of new or alternative paragraph inserted into original Draft Report during consideration.	Marginal Note to paragraph in Report as finally published. (Vol. I, Part I.)	Pages of Proceedings on which amendments will be found. (Vol. I, Part II.)	Number of paragraph in Report as finally published. (Vol I, Part I.)
185		Misapprehensions as to position and functions of Counsellors.	571.	188
186		The Governor General's staff ..	371. *371.*	189
	188	The difficulties of Dyarchy at the Centre ;[2]	461–2.[1] *371–2.*	191
	189	and of composite nature of Executive.[2]	461–2.[1] *371–2.[4]*	192
	190–1		*571–3.[3]*	
190–192			461.[1 3] *371 2[4]*	
193			461.[1 3]	
194		Difficulty of the subject	372, 573.	193
195		Composition of Council of State and Federal House Assembly proposed in White Paper.	573-4. *372 3.[1]*	194
196		Method of Election to Council of State proposed in the White Paper.[2]	574.	195
197		Method of Election to House of Assembly proposed in the White Paper.[2]	574.	196
199	—	Direct or indirect election	377, 575. *373—7,[1] 575.*	198

[1] The Committee divided.
[2] This marginal note has been changed since the paragraph was first laid before the Joint Committee.
[3] These paragraphs have been left out.
[4] Amendment moved and postponed.

Pages of Proceedings on which amendments to paragraphs were agreed to are shown in Roman figures.
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Number of paragraph in original Draft Report. (Vol. I, Part II)	Number of new or alternative paragraph inserted into original Draft Report during consideration.	Marginal Note to paragraph in Report as finally published. (Vol I, Part I.)	Pages of Proceedings on which amendments will be found (Vol I, Part II.)	Number of paragraph in Report as finally published. (Vol. I, Part I.)
200	—	Essentials of representative government	*373–7*[1,2]	199
201	—	Indirect election recommended	*373–7.*[1,2]	200
202	—	Election to Federal House of Assembly by Provincial Assemblies	444–5, 573 *373–9,*[1] *573*	201
—	202A	Indirect election to be regarded as being open to future review[3]	379, 445, 576	202
203	—	The Council of State . ..	*373–7,*[1] *379.*	203
204	—	Council of State should be constituted on more permanent basis	577 *379 80,*[1] *511*[1]	204
205	—	Size of the two Federal Houses	380	205
—	205a	Proposal for unicameral Legislature rejected	380–1	206
207	—	Representation of the States ..	381, 462, 577. *381*	208
208	—	Temporary weightage in compensation for non-acceding States	*381.*	209
209	—	Tenure of States' Representatives	577.	210
214	—	Relations between the two Houses	383, 577. *382 3.*[1]	215

[1] The Committee divided.

[2] Amendment laid before Joint Committee and postponed.

[3] This marginal note has been changed since the paragraph was first laid before the Joint Committee.

Pages of Proceedings on which amendments to paragraphs were agreed to are shown in Roman figures.

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Number of paragraph in original Draft Report. (Vol. I, Part II.)	Number of new or alternative paragraph inserted into original Draft Report during consideration.	Marginal Note to paragraph in Report as finally published. (Vol. I, Part I.)	Pages of Proceedings on which amendments will be found. (Vol. I, Part II.)	Number of paragraph in Report as finally published. (Vol. I, Part I.)
215	—	Joint Sessions	462. *383.*	216
216	—	States' representatives and British India Legislation.	383, 578.	217
217	—	Administrative nexus between the Federation and its constituent units.	383–4, 579.	218
218	—	Duty of Provincial Government to give effect to federal laws.	384, 579.	219
—	219	Distinction between legislation in the exclusive and concurrent fields.	384–5, 462 3, 580.	220
220	—	Enforcement of Federal Government's directions.	385.	221
—	220A	Remedy proposed in event of contumacy on part of Province.	*385*[2]	—
221	—	Modification of White Paper proposals suggested.	385–6, 580.[3] *385, 580.*[4]	—
223	—	Inter-provincial relations[1] ..	386, 581	223
226	—	Modification of White Paper proposals suggested.	582.	226
227	—	Central Research	—	227

[1] This marginal note has been changed since the paragraph was first laid before the Joint Committee.
[2] This paragraph was not inserted.
[3] Amendments laid before Joint Committee and postponed.
[4] This paragraph was left out.

Pages of Proceedings on which amendments to paragraphs were agreed to are shown in Roman figures.
Pages of Proceedings on which amendments to paragraphs were not agreed to or postponed are shown in *Italic figures*.

Number of paragraph in original Draft Report. (Vol. I, Part II.)	Number of new or alternative paragraph inserted into original Draft Report during consideration.	Marginal Note to paragraph in Report as finally published. (Vol. I, Part I.)	Pages of Proceedings on which amendments will be found. (Vol. I, Part II.)	Number of paragraph in Report as finally published. (Vol. I, Part I.)
Appendix (II)	—	Scheme for election of British India Representatives to Council of State and House of Assembly.	511, 582–3. *387, 582[1]–3[1].*	Appendix (II)
Appendix (III)	—	Scheme of distribution of States' seats in the Federal Legislature as propounded by the Governor-General as basis of discussion.	583.	Appendix (III)
232	—	Two Lists or one as the method of defining exclusive jurisdictions.	387–8, 584. *583.*	232
233	—	The Concurrent List	584.	233
234	—	Relations between Centre and Provinces in the concurrent field.	388.	234
—	238A	The Railway Police	388–9.	239
—	238B	Certain Social Services should be included in Concurrent List.	585–6.[1]	240
—	239B	Labour legislation	*389–90.*[1] [2]	—
Revised Lists. II	—	(Provincial)	586. *586.*	Revised List II
III	—	(Concurrent)	586.	Revised List III
243	—	The existing system in British India.	390.	245

[1] The Committee divided.
[2] This paragraph was not inserted.

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244	—	Its results	390.	246
245	—	Effect of entry of the States into Federation.	463, 587. *391–2.*	247
246	—	Plan suggested for allocation of taxes on income.	587.	248
247	—	Difficulty of determining equitable basis for division of taxes on income between Federation and Provinces.	*392.*	249
250	—	Modifications suggested	393, 587. *393.*	252
253	—	Scheme of White Paper generally recommended.	393. *393.*	255
254	—	Corporation Tax . ..	393 *393-4.*	256
255	—	Provincial surcharges	*394.*	257
—	255A	Taxes on agricultural incomes	394.	258
257	—	Excise and export duties ..	394.	260
258	—	Terminal and other taxes .	394.	261
259	—	Interest of the Provinces in the Federal budget.	394–5, 587.	262
—	260	Financial adjustments between the Federation and the States.	588.	263
—	260A	Land customs duties imposed by Indian States.	395, 588.	264
265	—	Orissa	395.	269

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—	265A	Other deficit provinces	396.	270
267	—	General conclusions	*396.*[1]	272
268	—	The financial situation in relation to constitutional changes.	588.	273
269	—	The Public Services under responsible government.	398.	274
270	—	The British element in the Services.	398.	275
271	—	The India Civil Services ..	589.	276
279	—	Other rights[2]	399, 589. *399*[3]	284
—	279A	Special right to compensation for loss of any existing right.	399, 589	285
280	—	Rights to equitable compensation.[2]	399.	286
281	—	Further safeguards not necessary.	464	287
—	282A	Conditions of service of officers appointed by the Secretary of State.	589-90.[2]	289
—	283	Status of the Public Services[2]	464. *400-2.*	290

[1] The Committee divided.
[2] This marginal note has been changed since the paragraph was first laid before the Joint Committee.
[3] Amendment laid before Joint Committee and postponed.

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	283A	All-India, Central and Provincial Services are all Crown Services.	464-5 *400.*	291
	283B	Governor-General and Governors should be, under the Crown, recognised as heads of Central and Provincial Services respectively.	465 *400-1.*	292
	283C	Status and rights of Central and Provincial Services not to be inferior to those All-India Services.	465-6 *401, 591.*	293
	283D	Votability of salaries, etc., of Central and Provincial Services	466. *401-2.*	294
285		Future recruitment for Indian Civil Service and Indian Police.	402.	296
286		Continuance of recruitment by Secretary of State recommended.	402-3 *402-3* [1]	297
287		Position should be reviewed in light of experience.	404, 466. *403-4.* [1]	298
293		Future recruitment	591.	304
295		Future recruitment	405.	306
298		Future recruitment	405.	309
299		Question of future resumption of recruitment by the Secretary of State.	*405.*	310

[1] The Committee divided.

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—	299A	English personnel in Forest and Irrigation Services.	466–7. *405.*	311
305	—	No special provision required	406, 591. *405.*	317
306	—	Claims for pensions by officers appointed by the Secretary of State.	467, 592. *406–7.*	318
—	306A	Binding nature of obligation in respect of pensions.	592.	319
—	307	Family pension funds	408, 520, 593,[1] 606–7. *407–8.*	—
—	New paragraph 307	Family pension funds	606–7.	320
308	—	Anglo-Indians and the Services	467. *409.*	321
310	—	The Judges of the Federal Court	409. *409.*[1]	323
311	—	Original jurisdiction of Federal Court.	593.	324
312	—	Appellate jurisdiction of Federal Court.	593–4.	325
314	—	Advisory jurisdiction of Federal Court.	440.	327
316	—	Proposal for future establishment of a Supreme Court.	594. *409–10.*[2]	329
317	—	A Court of Criminal Appeal not recommended.	446, 594–5.	330

[1] Amendment laid before Joint Committee and postponed.
[2] The Committee divided.

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318		The High Court Judges .	410, 440, 446, 467, 595. *410.*	331
319		Administrative machinery of High Courts.	*410–11.*[2]	332
	319A	Administrative control of High Courts should remain with Provincial Government.	411–12.	333
320		Federal and Provincial Legislation in relation to the High Courts.	412, 468, 595. *412.*	334
	320A	Future constitutional position of High Courts.	412–13, 596.	335
	320B	Protection of Judiciary from criticism in Legislatures.	596.	336
323		Subordinate Judges and munsifs.	*413*	339
324		District judges	*596.*	340
	326	Definition of problem[2] ..	450. *447–48.*	342
	327	The Fiscal Convention[2] ..	450–1. *447–49.*[3]	343
	328	The Fiscal Convention and the new Constitution.[2]	453, 597. *447–49,*[3] *451–3.*[1]	344

[1] The Committee divided.
[2] This marginal note has been changed since the paragraph was first laid before the Joint Committee.
[3] Amendments laid before the Joint Committee and postponed.

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—	329	Governor-General should have a special responsibility to prevent penal discrimination against British imports.[2]	453–4, 598. *447–50*[3], *451–3.*[1]	345
—	329A	Principles of future trade relations between India and United Kingdom.	454.	346
—	329B	Discrimination against British trade in India.	454–5.	347
—	329C	Administrative discrimination	455.	348
330	—	Legislative Discrimination ..	*451–3.*[1]	349
331	—	General considerations ..	512, 598. *455, 598.*	350
332	—	Laws imposing certain conditions and restrictions should not apply to British subjects domiciled in the United Kingdom.	512. *455, 598.*	351
333	—	Companies incorporated in the United Kingdom and in India.	*456.*	352
335	—	Shipping	456. *456*[1].	354
336	—	Exceptions	456.	355

[1] The Committee divided.
[2] This marginal note has been changed since the paragraph was first laid before the Joint Committee
[3] Amendments laid before the Joint Committee and postponed.

Pages of Proceedings on which amendments to paragraphs were agreed to are shown in Roman figures.
Pages of Proceedings on which amendments to paragraphs were not agreed to or postponed are shown in *Italic* figures.

Number of paragraph in original Draft Report. (Vol. I, Part II.)	Number of new or alternative paragraph inserted into original Draft Report during consideration.	Marginal Note to paragraph in Report as finally published. (Vol. I, Part I.)	Pages of Proceedings on which amendments will be found. (Vol. I, Part II.)	Number of paragraph in Report as finally published. (Vol. I, Part I.)
337	—	Bounties and subsidies	512. *457.*	356
338	—	Bills discriminatory in fact though not in form.	512, 599. *457*[1], *599*	357
339	—	Practice of professions	513.	358
341	—	Opportunity should be given for conventional arrangements in the future.	607	360
343	—	Withdrawal of recognition of Indian Medical diplomas.	599.	362
346	—	The Indian Medical Service	458.	365
347	—	A Declaration of fundamental rights impracticable.	*420–21.*	366
348	—	Eligibility for holding public office, etc.	421, 600. *421, 600.*	367
349	—	Expropriation of private property.	513, 600. *421–2.*	—
	New paragraph 349	————	600–601.[1]	369
—	349A	Special case of grants of land or of tenure of land free of land revenue.	422, 602.	370
—	349B	Prior consent of Governor-General or Governor should be required to legislation affecting such grants.	468. *422.*	371

[1] The Committee divided.

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—	349C	The Permanent Settlement .	468 9. *423.*	372
—	349D	The English Language .	423-4.	373
351	—	Grant of Constituent Powers to Indian Legislatures not yet practicable	424, 602.	375
—	351A	Variation of instrument of instructions in order to transfer greater responsibility to ministers.	424.[1]	—
353	—	Administrative matters ..	602	377
354	—	Matters which should be under control of Parliament.	602.	378
355	—	Procedure suggested	602.	379
357	—	Resolutions should be subject to certain conditions.	424.	381
361	—	Continuance of Council of India not necessary under responsible Government.	*425.*	385
362	—	An advisory body proposed ..	426. *426.*	386
364	—	India Office staff ..	427. *426-7, 603.*	388
366	—	Indian Reserve Bank Act, 1934	603[3]. *427-8, 607.*	390
367	—	Certain amendments of Act should require prior sanction of Governor General.	*607.*	391

[1] This paragraph was not inserted.
[2] The Committee divided.
[3] Amendment laid before Joint Committee and postponed.

Pages of Proceedings on which amendments to paragraphs were agreed to are shown in Roman figures.

Pages of Proceedings on which amendments to paragraphs were not agreed to or postponed are shown in *Italic* figures.

Number of paragraph in original draft Report. (Vol. I. Part II.)	Number of new or alternative paragraph inserted into original Draft Report during consider-ation.	Marginal Note to paragraph in Report as finally published. (Vol. I. Part I.)	Pages of Proceedings on which amendment will be found. (Vol. I, Part II.)	Number of paragraph in Report as finally published. (Vol. I, Part I.)
369	—	Report of Committee in June, 1933.	469. *428.*	393
370	—	Certain matters should be regulated by Constitution Act.	428, 469, 608.	394
—	370A	Disputes between Railway Authority and Indian States Railways.	513, 608.	395
372	—	Future arrangements	469-70.	397
374	—	Recommendations .. .	428.	399
376	—	Advocates-General should be appointed in all provinces.	608.	401
380	—	Appointment should be made by Governor-General in his discretion.	470, 609. *429.*	405
382		Transitory provisions necessary, if Provincial Autonomy precedes Federation.	609.	407
385	—	Modifications in White Paper proposals recommended.	609.	410
387	—	The "Burma White Paper" ..	*429.*	412
388	—	Subjects to be discussed ..	610.	413
389	—	Area of Province	429, 610.	414
390	—	Physical features	492.	415
391	—	Its isolation	429, 610–11.	416

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392	—	Summary of British connection with Burma.	492.	417
394	—	Burma constituted a Governor's Province.	429. 492.	419
396	—	Both parties desire separation	430.	421
397	—	Separation justified on practical grounds.	430. 493. *430.*	422
399	—	Tariffs and separation . . .	49[illegible].	424
400	—	Effect of tariffs on India Burma trade.	611.	425
403	-	Moderate tariffs not necessarily injurious to trade between the two countries.	430.	428
405	—	Period during which a Trade Convention should continue in force.	493, 612. *612.*	430
406	—	Statutory provisions recommended.	612. *430.*	431
—	406A	Relief from double income tax.	493.	432
407	-	Immigration of Indian labour.	430, 613.	433
414	—	The Executive Government .	513.	440
415	—	Law and Order	431, 514, 520 1, 614. *494.*[1]	441
416	—	The Burma Police . .	614.	442
—	415A	Racial rivalries . . .	*494,*[1] *514–15.*[2]	-

[1] Amendment considered and postponed.
[2] This paragraph was not inserted.

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419		The Governor's special responsibilities	494–5	445
420		Defence.	431	446
421		Other Reserved Departments	431	447
422		Monetary policy, currency and coinage	431, 614.	448
423		The Governor's Counsellors and the Financial Adviser	431.	449
426		Objections to system of rotational retirements for Senate	515 *495, 614*	452
427		Composition of House of Representatives	614 5	453
428		Women's seats .	*615* [1]	454
429		Franchise for House of Representatives	431-2, 615-6 [1] *615 16* [1]	455
430		Powers of Legislature	432	456
431		Relations between the two Houses	515	457
436		Financial arrangements for Excluded Areas	432	462
438		Proposals generally the same as for Indian Services	432, 495, 617	464
	438A	Ratios of European and Burman recruitment.	515 6	465
439				466

[1] The Committee divided.

Pages of Proceedings on which amendments to paragraphs were agreed to are shown in Roman figures

P[illegible]of Proceedings on which amendments to paragraphs were not agreed to or are shown in *Italic* figures.

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Number of paragraph in original Draft Report. (Vol. I, Part II.)	Number of new or alternative paragraph inserted into original Draft Report during consideration.	Marginal Note to paragraph in Report as finally published. (Vol. I, Part I.)	Pages of Proceedings on which amendments will be found. (Vol. I, Part II.)	Number of paragraph in Report as finally (Vol. I)
440		Medical and Superior Railway Services.	433, 617.	467
	442A	Anglo-Indians and Anglo-Burmans.	*496–7.*	470
443		Discrimination as between Burma and India.	516, 617.	471
	443A	Penal discrimination against imports to and from Burma and India.	516.	472
444		Position of Indians in Burma	516.	473
445		Existing Restrictions .. * ..	432, 618.	474
446		Medical Qualifications .. * ..	618.	475
447		Suggestions for future .. .	618–9.	476
450		Constituent powers, etc. ..	433–4. *619.*	479
451		The Secretary of State ..	434, 620.	480
452		The Secretary of State's Advisers.	434.	481

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